

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.1310 of 2013

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Ajay Shankar Singh, S/o Late Ram Sakal Singh, R/o Village
Moldiar Tola, P.S Mokama, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
 2. The Sub Divisional Magistrate, Barh, Patna.
 3. Kedar Paswan, S/o Sri Chandrika Paswan.
 4. Janardan Paswan, S/o Sri Chandrika Paswan.
 5. Madhusudan Paswan, S/o Sri Chandrika Paswan.
- All O.P. Nos. 3 – 4 are R/o Village Ishanagar, P.O. Karkein, P.S.
Ghoswari, District Patna.
6. Anil Bihari Singh @ Saroj Prasad Singh.
 7. Shailesh Bihari Singh.
 8. Arun Bihari Singh, S/O Pramod Bihari Singh.
- All O.P. Nos. 6 – 8 are R/o Village Teus, P.O. Barbiga, P.S.
Jairampur, District Shekhpura.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jai Prakash Sharma, Adv.

For the Respondent Nos. 3 - 5 : Mr. Chandra Sen Pd. Singh, Adv.

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL JUDGMENT & ORDER

Date: 30-11-2016

The present criminal revision application, under
Sections 397 and 401 of the Code of Criminal Procedure, has



been filed, seeking setting aside the order, dated 12.06.2013, passed by learned Sub-Divisional Magistrate, Barh, Patna, in Case No. 223 of 2010, whereby, he had held possession of opposite party Nos. 3, 4 and 5 over the disputed land in a proceeding under Section 145 of the Code of Criminal Procedure. After having passed the said order, learned Sub-Divisional Magistrate had restrained the petitioner from interfering with the possession of the said opposite parties till the order, dated 12.06.2013, was interfered with by a competent court of civil jurisdiction.

2. I have heard learned counsel appearing on behalf of the petitioner and learned counsel representing the contesting respondent Nos. 3 to 5.

3. Learned counsel for the petitioner has submitted that learned Sub-Divisional Magistrate, Barh, Patna, in his order, dated 12.06.2013, has committed an error of record and despite there being evidence to the effect that the petitioner had the possession over the disputed land, erroneously recorded that the opposite party Nos. 3, 4 and 5 were in possession of the said land. In support of the said submission, he has relied upon statement of one Anil Bihari Singh, recorded in course of enquiry before the learned Sub-Divisional Magistrate, wherein, he had stated that the possession of land in question was handed over to the



petitioner after an agreement to sale was executed.

4. Learned counsel, appearing on behalf of opposite party Nos. 3, 4 and 5, on the other hand, has submitted that there is no error in the impugned order, dated 12.06.2013, as, according to him, the statement of said Anil Bihari Singh is with respect to another plot and that too with reference to an unregistered *Mahadanama*.

5. It is not in dispute that a suit for specific performance of contract, *vide* T.S. No. 154 of 2012, in the Court of learned Sub-Judge, Barh, Patna, filed by the petitioner, is pending. Question as to whether the petitioner is in possession of the disputed land in question, on the basis of said *Mahadanama*, executed in his favour by said Anil Bihari Singh, can be raised by him in the said proceeding, if permissible.

6. The order, dated 12.06.2013, passed by the learned Sub-Divisional Magistrate, Barh, Patna, does not require interference in the present criminal revision proceeding since I do not find any lack of jurisdiction or procedural lapse in passing of the order under challenge.

7. This application is, accordingly, dismissed.

8. It goes without saying that the findings recorded by the learned Sub-Divisional Magistrate, Barh, Patna, as regards possession over the disputed land shall not prejudice



the case of the parties in the said title suit, aforementioned, in any manner whatsoever.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	02/12/2016
Transmission Date	02/12/2016

