

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.3190 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District- VAISHALI(HAJIPUR)

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Ram Karan Sah Son of Late Bishundeo Sah resident of village - Abul Hasanpur,
P.S. Vaishali, District - Vaishali

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Subodh Prasad, Advocate

For the Opposite Party/s : Mr. Rajesh Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 16-02-2016

By way of the present application under Section 482 of the Code of Criminal Procedure, 1973 (For Short “CrPC”), the petitioner seeks quashing of the order dated 22.08.2014 passed by Sub-Divisional Officer, Hajipur in Case No. M- 620 of 2013, whereby the Officer-in-Charge of Sarai Police Station has been appointed as a receiver in respect of the property in dispute in a proceeding under Section 145 CrPC.

2. Mr. Subodh Prasad, learned counsel for the petitioner submits that the proceeding under Section 145 CrPC is intended to provide speedy remedy for the prevention of breaches of peace arising out of disputes relating to immovable property. The object of this section is to enable a Magistrate to intervene and

pass a temporary order in regard to the possession of the party in dispute. He submits that Section 146 CrPC is a corollary to Section 145 CrPC and under Section 146(1) CrPC the Magistrate is given power to attach the subject of dispute until the competent Court has determined the rights of parties thereto with regard to the person entitled to the possession thereof. He has submitted that one Binda Devi, daughter of Mukka Yadav, has filed Title Suit No. 147 of 2012 on 03.03.2012 in the Court of learned Sub-Judge, Ist, Vaishali for cancellation of sale deeds and the same is pending for disposal. He submits that when the title suit is going on, the Sub-Divisional Officer, Hajipur had no jurisdiction to pass the impugned order.

3. The aforesaid proceeding under Section 145 CrPC was initiated on the basis of an application filed by one Reeta Devi, wife of Sri Kaleshwar Rai, who has not been made a party in present case. The matter cannot proceed ex parte and the present application is bad due to non-joinder of the necessary party.

4. Accordingly, the application is disposed of with liberty to the petitioner to file another application in the same subject matter after impleading the necessary parties.

(Ashwani Kumar Singh, J.)

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