

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.369 of 2015

=====

1. Ranjana Devi wife of Sri pankaj Kumar Resident of Mohalla-
chandchaura Dakhin Darbaja, P.S-Civil Lines, District- Gaya

.... Petitioner/s

Versus

1. The State of Bihar Through The Chief Secretary, Govt. of Bihar, Patna
2. Jitendra Singh son of Basudeo Singh
3. Satendra Singh son of Late Madho Singh
4. Sunil Singh Son of Late Ramphal Singh
5. Ashok Singh Son of Late Mahesh Singh
6. Rajendra Singh Son of late Bishun Singh All Resident of Mohalla-
Bhagwanpur, P.S- Bodhgaya, District-Gaya

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Dinu Kumar,
Mr. Shiw Kumar Prabhakar,
Advocates.

For the Respondent No. 2 : Mr. Dhananjay Kr. Tiwary, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

4 13-12-2016 Heard Mr. Dinu Kumar for the petitioner and Mr.

Dhananjay Kumar Tiwary for the respondent no.2. In spite of
notice, respondent nos. 3 to 6 have not appeared to contest.

The present writ application is directed against the
order dated 17.04.2013 passed by the Sub Divisional Officer,
Sadar, Gaya in Misc. case no. 3577 of 2011 whereby on a
consideration of the show cause(s) filed by both the parties, the
proceeding under Section 144 Cr. P.C. was converted to 145 Cr.
P.C. and parties are permitted to file show causes for disposal
of the said case.



The petitioner claims purchase of the subject land as detailed in para 4 of the writ petition from the daughter of Raudi Singh whereas the respondents also claim title thereover by virtue of a sale made by another descendants of Raudi Singh. Earlier a dispute with respect to the subject land was raised before the Sub Divisional Officer under Section 144 Cr. P.C. which gave rise to Misc. Case No. 2954 of 2011 wherein the learned Magistrate after filing of the show cause(s) by both the parties dropped the proceedings. It is stated that thereafter the respondent(s) approached the Deputy Collector Land Reforms (for short 'the DCLR') under the Bihar Land Dispute Resolution Act, 2009 (for short 'the Act') which gave rise to case No. 218 of 2011-12 wherein, on a consideration of the papers submitted by the parties, the proceedings was dropped observing that serious disputed questions of title were involved in the case and, and as such, the Court would restrain its hand. Thereafter the private respondent(s) approached the Sub Divisional Officer under the emergency provision of the Code of Criminal Procedure which gave rise to a proceedings under Section 144 of the Cr. P.C. and after considering the show causes filed therein, the learned Magistrate converted the same into one under Section 145 Cr. P.C. Aggrieved thereby the present writ petition has been filed.



It is submitted that once the dispute was raised before the authority under the Code and dropped, in all fairness, second proceeding under Section 144 Cr. P.C. would not be maintainable. The order converting the said proceeding into a proceeding under Section 145 Cr. P.C. is bad in law particularly when the matter was raised unsuccessfully before the DCLR.

Learned counsel for the private respondents, on the other hand, submits that the proceedings filed before the respondent- DCLR was not considered on merit. The Court did not proceed further in the matter finding that the disputed questions of title were involved in the case as both the parties claimed their right, title and interest over the subject land in his/their own rights. As the proceedings under Section 144 Cr.P.C. was earlier dropped, there was no legal obstacle in initiating a fresh proceedings under 144 of the Cr. P.C. In the case at hand, upon filing of the show causes by both the parties, the learned Magistrate acting in his own discretion and being satisfied with the materials on record converted the same into one under Section 145 of the Cr.P.C. for final adjudication.

On a consideration of the rival submissions and after perusing the materials on record, in my view, the learned Magistrate has not committed any patent illegality which can be



cured by invocation of the extraordinary and discretionary writ jurisdiction of the Court. The proceedings has already been initiated and the parties will be at liberty to contest the same for its disposal on merit in accordance with law. Finding no merit in the application, the same is dismissed.

Let both the parties appear before the learned- Sub Divisional Officer in the said proceeding and file copy of the present order within 03 weeks whereafter the learned Magistrate will take up the said case and proceed to dispose of the same in accordance with law as quickly as possible preferably within 05 months therefrom.

(Kishore Kumar Mandal, J)

Shyam/-

U		T	
---	--	---	--

