

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21927 of 2013

Radha, Singh Wife of Kameshwar Pratap Singh Resident of Village Natwar
Samaria, P.S. - Majhi, District - Saran At Chapra

.... Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Bihar, Patna
2. The District Magistrate, Bhagalpur, District - Bhagalpur
3. The Sub-Divisional Magistrate-Cum-Sub-Divisional Officer, Sadar, Bhagalpur, District - Bhagalpur
4. The Circle Officer, Nath Nagar Block, Bhagalpur
5. The Superintendent of Police, Bhagalpur, District - Bhagalpur
6. The Officer-In-Charge, Madhusudanpur Police Station, Bhagalpur, District Bhagalpur
7. The Executive Magistrate, Sadar, Bhagalpur, District - Bhagalpur

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. MRIGANK MAULI
For the Respondent/s : Mr. ARVIND KUMAR SINHA, AC to SC-14
For the Intervener : Mr. RAY SAURAV NATH

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT

Date: 30-08-2016

Heard Mr. Mrigank Mauli, for the petitioner, Mr. Arvind
Kumar Sinha, the counsel for the State as well as the Mr. Ray
Saurav Nath, the counsel for the Intervener Applicant
(I.A. No. 5877 of 2016).

The writ application seeks a direction restraining the
respondents-State from auctioning the fruits of the mango orchard
appertaining to Khata No. 608, Khesra No. 1509, admeasuring a
total of area 2 acres 42 decimals, located in Mauza-Nish, in the
district of Bhagalpur.



It is submitted with reference to diverse documents that several litigations in respect of the mango orchard were initiated, which have been decided in favour of the petitioner. As and when the fruit season comes, a litigation is filed and stay/interim order is obtained, wherein the fruits are auction sold. The petitioner has not been paid the proceeds thereof.

Mr. Nath, on the other hand, has disputed the contention of the petitioner and states that still a proceeding under Section 145 of Cr.P.C. is going on in respect of the subject orchard. The Magistrate is in sesin of the matter in respect of the subject orchard vide Case No. 536/07.

Considering the above, it is not deemed apposite for this Court to delve into and resolve dispute(s) of such nature. From the materials placed on record, it appears to the Court that a proceeding in respect of the subject orchard is pending before the respondent-Sub Divisional Magistrate. The contention of the petitioner is that such repeated proceeding under Section 145 of Cr.P.C. is contrary to the provisions of the Act.

Be that as it may, the objections to the maintainability of the proceeding or the merit of the case can be agitated before the court where the said matter is pending. Considering the above, this Court would direct both the parties to appear in the said proceeding

and contest the same. It is expected upon appearance of the parties and filing of the pleadings, the said proceeding shall be concluded expeditiously preferably within two (02) months therefrom.

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(Kishore Kumar Mandal, J)