

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.47957 of 2013

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1. Mohsin Alam, son of Late Shamshul Haque.
 2. Khalid Rashid Saba @ Nirala @ Khalid Rashid, son of Mohsin Alam.
 3. Lalo @ Adil Hussain @ Adil, son of Talib Hussain @ Kuddi.
 4. Amin Rashid @ Aminur Rashid @ Ammo, son of Talib Hussain @ Kuddi.
 5. Haroon Rashid, son of Talib Hussain @ Kuddi.
 6. Quamrul, son of Late Pachu.
 7. Badrul @ Badrul Haque, son of Late Pachu.
 8. Aynul, son of Gulabuddin.

All are resident of village- Bauram, P.S.- Jamalpur, District - Darbhanga.

.... Petitioners.

Versus

1. The State of Bihar.
2. Mahmood Alam, son of Late Shamshul Haque, resident of village- Bauram, P.S.- Jamalpur, District- Darbhanga.

.... Opposite Parties.

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Appearance :

For the Petitioners : Mr. Iqbal Asif Niazi, Advocate.
For the State : Mr. Jharkhandi Upadhyay, A.P.P.
For the Opposite Party no.2 : Mr. Ranjan Kumar Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date: 07-04-2016

Heard the parties.

2. This application under Section 482 of the Code of Criminal Procedure filed on behalf of the petitioners is directed against the Orders dated 16.01.2013 and 06.06.2012 passed in M.R. Case No.590 of 2009, whereunder the Sub Divisional Magistrate, Biraul, respectively rejected the application of the petitioners filed under section 145(5) of the Code of Criminal Procedure to drop the proceeding and ordered for attachment of the land in dispute under

Section 146(1) of the Code of Criminal Procedure with a prayer to quash the entire proceedings of the concerned case.

3. The submission on behalf of the petitioners is that when the second time proceeding of Section 144 of the Code of Criminal Procedure was converted into under Section 145 of the Code of Criminal Procedure, the members of the second party/petitioners preferred Criminal Revision No.408 of 2009 which was disposed of by the Sessions Judge, Darbhanga, on 08.03.2010 with liberty to the petitioners to take appropriate steps before the court below who will pass the due order reconsidering the factual and legal aspect but the Sub Divisional Magistrate, Biraul, rejected the application of the petitioners filed under Section 145(5) of the Code of Criminal Procedure to drop the proceeding vide impugned order dated 16.01.2013.

4. On going through the impugned order dated 16.01.2013, it appears that the learned Sub Divisional Magistrate, Biraul, rejected the application of the petitioners taking into consideration that there is apprehension of breach of peace over the land in dispute between the parties and vide order dated 06.06.2012 the land in dispute has already been attached under Section 146(1) of the Code of Criminal Procedure.

5. I find no illegality in the impugned order amounting to

an abuse of the process of the court, calling for interference with the same in an extraordinary jurisdiction of this Court under Section 482 of the Code of Criminal Procedure.

6. Accordingly, this application stands dismissed.

(Rajendra Kumar Mishra, J)

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