

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.35339 of 2015

In

Criminal Miscellaneous No.9843 of 2013

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Ram Dulari Devi, Wife of Sri Gauri Shankar Sah, resident of Village - Pipra
P.S. - Chautham, P.O. - Keshav Nagar, District - Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Yogi Yadav, Son of Late Bihari Yadav, resident of Village - Nauranga,
P.S. - Chautham, P.O. - Saraiya, District - Khagaria.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vivekanand Prasad Singh, Adv.

For the Opposite Party no.1 : Mrs. Gulnar Begum, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 13-01-2016

Cr.Misc.No.35339 of 2015

After having heard the parties and for the reasons disclosed in the present application, the prayer for restoration of Cr.Misc.No.9843 of 2013, which stood dismissed for want of prosecution by an order dated 16.07.2015, is allowed. Cr.Misc.No.9843 of 2013 is restored to its original file.

The present Cr.Misc. application stands finally disposed of.

Cr.Misc.No.9843 of 2013

With the consent of the parties, the present matter has been taken for consideration on merit.

The petitioner has filed the present application under Section 482 of the Code of Criminal Procedure, 1973 for quashing the order dated 08.11.2012 passed in Cr.Rev.No.45 of 2011 by the learned 2nd Additional Sessions Judge, Khagaria, whereby the aforesaid Criminal Revision Application filed on behalf of the opposite party no.2 was allowed and the order dated 13.04.2011 passed in Case No.508M of 1991 by the learned Executive Magistrate, Khagaria declaring the possession of the petitioner over the lands in question was set aside.

After having heard the parties and taking into consideration the nature of dispute between the parties regarding lands in question, this Court is of the opinion that unless and until the issue of right and title of the parties are decided by the competent Civil Court, the question of possession shall not be effectively and conclusively decided.

In above view of the matter, the present application is disposed of with a liberty to the petitioner to approach the Civil Court of competent jurisdiction for getting her right and title declared over the lands in question.

If such a civil suit is filed on behalf of the petitioner within a period of three months from today with a certified copy of the present order, after impleading all the necessary parties including the opposite party no.2, then the same shall be decided on its own merits on the basis of the evidence/materials produced by the parties in support of their respective claims over the lands in question, but without being prejudiced/influenced by the findings recorded either by the learned Executive Magistrate in favour of the petitioner in the aforesaid proceeding under Section 145 Cr.P.C. or by the learned revisional court below in favour of the opposite party no.2 in the impugned revisional order with respect to the lands in question.

It is clarified that the parties shall be at liberty to raise all the issues of facts and law, which may be available to them, with respect to the lands in question before the competent Civil Court.

The present application stands finally disposed of with the observations and directions made above.

Arvind/-

(Birendra Prasad Verma, J)

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