

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.34886 of 2013**

- =====
1. Gulab Jha @ Laxman Jha, S/O Tara Kant Jha Resident of Village-Raghunathpur, P.S.- Sarsi, District- Purnia.
  2. Rohit Jha, S/O Tara Kant Jha Resident Of Village-Raghunathpur, P.S.- Sarsi, District- Purnia

.... .... Petitioners

Versus

1. The State of Bihar
2. Shatrughan Jha @ Shatrughan Kumar Jha @ Pappu Jha, S/O Tarakant Jha, Resident of Village-Raghunathpur, P.S.- Sarsi, District- Purnia.

.... .... Opposite Parties

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**Appearance :**

For the Petitioners : Mr. Arun Kumar Arun

For the Opposite Parties : Mr. Anuradha Singh (App)

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**CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA**

**ORAL ORDER**

2      08-03-2016

Heard.

This application has been filed under Section 482 of Cr.P.C. against the order dated 30.05.2013 passed in Case No. 91(M) of 2013, whereunder the S.D.M., Banmankhi, Purnia converted the proceeding of Section 144 Cr.P.C. into Section 145 Cr.P.C.

Learned counsel appearing on behalf of the petitioners submits that the impugned order regarding conversion of the proceeding under Section 144 to Section 145 is passed after 60 days of the initiation of the proceeding under Section 144 Cr.P.C. as such the same is bad in law. Further submission is that the Title Suit No. 121 of 2013 filed on 06.12.2013 is pending between the parties regarding the same land, as such conversion of proceeding of Section 144 Cr.P.C. into Section 145 Cr.P.C. is not permissible in law. The Executive

Magistrate is empowered to initiate the proceeding under Section 145 of Cr.P.C. during the proceeding under Section 144 Cr.P.C., when he arrived at conclusion to the effect that there is existence of breach of peace in respect to the land dispute. So far as the pending Title Suit No. 121 of 2013 is concerned, it is clear from the supplementary affidavit of the petitioner that on the date of the passing of the impugned order the said suit bearing Title Suit No. 121 of 2013 was not in existence as title suit is filed on 06.12.2013, whereas impugned order is passed earlier on 30.05.2013.

As such, I do not find any illegality amounting to abuse of process of Court for interference under Section 482 Cr.P.C. Accordingly, this application is hereby dismissed.

**(Rajendra Kumar Mishra, J.)**

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