

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40022 of 2014

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Rajiv Ranjan Singh @ Raju Singh @ Raju Sonof Late Ram Chandra Singh
Resident of Village - Bajidpur, P.S. - Bihta, District -Patna, at present
residing at Flat No. 102 Mahual Kothi, Mohalla - North Srikrishna Puri,
Police Station - Srikrishna Puri, District/Town - Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Vijya Nand Singh Son of Sri Sachida Nand Singh Resident at 101 N.C.
Kankar Bagh, Post Office- Lohiya Nagar, Police Station - KankarBagh,
District/Town - Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Birendra Sharma, Advocate

For the Opposite Party/s : Mr. Dr.Ajit Kumar (APP)

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

6 09-10-2017 That this quashing application under Section 482 of Code of Criminal Procedure Code has been filed against the order dated 08.01.2014 passed by the learned Session Judge, Patna in Criminal Revision No. 514 of 2013 dismissing the revision petition as well as against the order dated 03.06.2013 passed by S.D.M., Sadar Patna in case No. 1440(M) of 2012 initiating proceeding under Section 145 Cr.P.C. with respect to disputed land.

2. Briefly stated, the facts of the case are that the petitioner had entered into an agreement for sale to purchase the land of an area of about 4 katha for a consideration amount of Rs. 1 crore and ten lacs out of which he paid Rs. 93 lacs and only Rs. 17 lacs was



remained to be paid. The sale deed was not executed in favour of petitioner and as such he filed Title Suit No. 353 of 2012 for specific performance of contract against the opposite party No. 2 which is pending before the Sub-Judge-VI, Patna in which defendants have appeared. That during pendency of the suit, a proceeding under Section 144 Cr.P.C. was initiated vide case No. 919(M) of 2012 at the instance of opposite party No. 2, namely, Vijya Nand Singh in which a report was called for by the learned S.D.M., Patna from the Executive Magistrate, who submitted its report.

3. After hearing both the parties, the learned S.D.M., Patna Sadar dropped the proceeding vide order dated 18.08.2012 and it was held that the dispute between the parties cannot be adjudicated either under Section 144 Cr.P.C. or under Section 145 of the Cr.P.C. That subsequent to said order dated 18.08.2012 on 05.09.2012 a petition was filed by opposite party No. 2 before the S.D.M., Patna Sadar. He started the proceeding under Section 145 of Cr.P.C. with respect to an area of 1 Katha 13 Dhoor and 18.5 Dhoorki vide case No. 1440(M) of 2012 without disclosing the fact that the earlier proceeding upon which a report was called for and same was submitted by Smt. Neelam Kumari, Sr. Deputy Collector, Patna Sadar vide letter No. 56 dated 25.03.2013 before



the learned S.D.M., Patna Sadar. The Learned Magistrate had submitted a report to the extent that the Title Suit No. 353 of 2012 is pending before the learned Sub-Judge, Patna as well as earlier proceeding under Section 144 Cr.P.C. which was initiated at the instance of the opposite party No. 2 was dropped with respect to same land.

4. That the property stands in the name of mother of opposite party No. 2 Smt. Sushila Devi, who had executed an agreement for sale after receiving a total sum of Rs. 93 lacs out of Rs. One crore ten lacs but his son opposite party No. 2 is filing frivolous petitions to harass the petitioner.

5. That once with respect to disputed land a Title Suit is pending before the competent Civil Court, no proceeding under Section 144 or under Section 145 can be initiated under the provisions of Code of Criminal Procedure. The aggrieved party can take recourse to law before the Civil Court in the form of an injunction order or restrain order. In the matter which is pending before the Civil Court, no proceeding under Section 144 or Section 145 of Cr.P.C. is maintainable.

6. There cannot be parallel proceeding of a civil suit and criminal proceeding. Possession and Title will be considered by the Civil Court. Multiplicity of litigations cannot be permitted.



There can be conflicting orders passed by two Courts on same issue. T.S. No. 352 of 2012 with respect to Title and right of possession over the disputed land is pending before Civil Court. Earlier by order dated 18.08.2012 as contained in Annexure-2 proceeding under Section 144 of Cr.P.C. was dropped and same was refused to be converted into proceeding under Section 145 of Cr.P.C. on the ground that Title Suit in Civil Court is pending between the same parties with respect to same disputed land. Either parties are at liberty to approach the Court for getting interim order of injunction or adequate protection to preserve the property during pendency of suit.

7. For the grounds stated above, the order passed by the Sub-Divisional Magistrate as well as Revisional Court is not sustainable and as such both the orders are quashed. The petition is allowed.

(S. Kumar, J)

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