

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.781 of 2011

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1. Paramhans Singh @ Parbhansh Singh, son of Late Ram Bhajan Singh
2. Ashok Kumar Singh, son of Tej Narain Singh
Both resident of village Chatar, P.O.-Babhangawan, Anchal Barahara,
Police Station Barahara, District Bhojpur

.... Petitioners

Versus

1. The State of Bihar
2. Sheo Komal Singh, son of Late Rameshwar Singh
3. Om Prakash @ Phudan Singh
2 and 3 are resident of village Chatar, p.O. Babhawangaon, Anchal Barahra,
Police Station Barahara, District Bhojpur

.... Respondents

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Appearance :

For the Petitioner/s	:	Mr. Anil Kumar Mishra Mr. Om Prakash Pandey
For the State	:	Mr. B.Lal(App)
For the O. P. No. 2	:	Mr. Bharat Bhushan Mr. Nitesh Kumar Mr. Anand Varshan

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER**

5 14-07-2017 Heard learned Counsel for the petitioner,

learned Counsel appearing on behalf of Opposite Party Nos.
2 & 3 and learned Additional Public Prosecutor representing
the State.

The petitioners are aggrieved by the judgment
and order, dated 19.05.2010, passed by learned Sessions
Judge, Bhojpur, at Ara, in Criminal Revision No. 51 of 2010,
whereby he has revised an order, dated 02.02.2010,
passed by the Sub Divisional Magistrate, Sadar, Ara, in
Case No. 240 of 2007, under Section 144 of the Code of



Criminal Procedure, 1973 (hereinafter referred to as 'the Code'), which was attached under Section 146 (1) of the Code.

I have perused the impugned judgment and order.

This is not in dispute that the parties are claiming their rights over the disputed land, as co-sharer. The Court of learned Sub Divisional Magistrate, Sadar, Ara, by order, dated 02.02.2010, passed in Case No. 240 of 2007, had attached the disputed land under Section 146 (1) of the Code.

I do not find any flaw in the reasoning assigned by the learned Court below, while allowing the criminal revision application filed on behalf of the Opposite Party Nos. 2 and 3 on the ground that attachment of a disputed land under Section 146 (1) of the Code was not justified because parties were claiming their rights over the disputed land as co-sharer.

Learned Court below has rightly recorded that when the Civil Court is not in a position to grant relief or declare possession of any of the parties, then the learned Sub Divisional Magistrate has no authority to pass any prohibitory order.

I do not find any illegality in the impugned



order, requiring this Court's interference in criminal revisional jurisdiction.

This application is accordingly dismissed.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

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