

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Revision No.886 of 2014**

=====

Jagarnath Prasad, son of Late Dharam Nath Prasad, resident of village  
Afaur, P. S. Khaira, District-Saran

.... .... Petitioner/s

Versus

1. Bindu Devi  
2. Abhay Singh  
3. Nirbhay Singh  
4. Munna Singh  
5. Basant Singh  
6. Chotu Singh  
7. Mantan Singh all are sons of late Sitleswar Prasad Singh  
8. Sindhu Devi Daughter of Sitleswar Prasad Singh  
9. Babli Devi daughter of Sitleswar Prasad Singh  
All except Respondent No.8 resident of village Afaur, P. S. Khaira, District  
Saran

.... .... Respondent/s

=====

**Appearance :**

For the Petitioner/s : Mr. Alka Verma

For the Respondent/s : Mr. Manoj Kumar No.1(App)

=====

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

5      20-02-2017                      Heard learned Counsel for the parties.

2. The petitioner is aggrieved by an order, dated 19.09.2011, passed by learned Additional District and Sessions Judge, Fast Track Court No.5, Saran at Chapra in Criminal Revision No. 144 of 2009 whereby he has set aside an order dated 16.08.2007 passed by the learned Executive Magistrate, Sadar Chapra in exercise of power under Section 145 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the **Code**). By the said order, dated 16.08.2007, the Executive Magistrate, Sadar Chapra had held the petitioner to be in possession of the



land, which was in dispute. Aggrieved by the said order the Opposite parties had preferred the said Criminal Revision No. 144 of 2009 before learned Sessions Judge, Saran at Chapra, which came to be disposed of by the impugned order, dated 19.09.2011 passed by learned Additional District and Sessions Judge, Fast Track Court No.V, Saran at Chapra.

3. From the impugned order I notice that learned Court below has interfered with the order passed by the Executive Magistrate under Section 145 of the Code mainly on two grounds. Firstly, he has held that on the basis of evidence in the proceeding under Section 145 of the Code, which were adduced on behalf of the parties, it could not be concluded that the petitioner was in possession of the land in question. Secondly, referring to Section 145 of the Code, he is of the view that said procedure could be adopted if there was any apprehension of breach of peace and such powers could be exercised.

4. The Court below, while setting aside order of the Executive Magistrate has not held Opposite parties to be in possession of the land in question. The case of the petitioner on the dispute over possession of land in question does not, therefore, suffer from any prejudice.

5. I do not find any legal infirmity in the impugned



order. The scope of a proceeding under Section 145 of the Code is very limited and is confined to deciding possession of a party over land in dispute in emergent situation, where there is apprehension of breach of peace. In the present case, it appears that the dispute between the parties started nearly a decade ago. Possibly remedy of the petitioner and the parties lies in civil suit or any other proceedings provided under the law.

6. The order does not require any interference.

7. This application is, accordingly, dismissed.

8. It is made clear that no finding recorded by the Courts below shall prejudice the case of the parties in any other proceedings relating to title or possession of the parties over the land in question.

ArunKumar/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|

**(Chakradhari Sharan Singh, J)**

