

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38371 of 2014

Arising Out of PS.Case No. -null Year- null Thana -null District- MUZAFFARPUR

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Manraj Sahni Son of Late Dhupan Sahani Resident of Village Rewa, P.O. -
Bakhara, P.S. - Saraiya, District- Muzaffarpur.

.... Petitioner

Versus

1. Chameliya Devi W/o Bilash Sahani, D/o Lakhan Sahani
2. Jitu Sahani
3. Rameshwar Sahani
4. Ram Kishore Sahani All are sons of Late Rupa Sahani
5. Hira Sahani Son of Pathal Sahani
6. Shamdeo Sahani
7. Arun Sahani Both Sons of Hira Sahani All residents of Village - Rewa P.O. -
Bekhara , P.S. - Saraiya, District - Muzaffarpur.
8. The State of Bihar

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Manoj Kumar Manoj, Advocate
For the State : Mr. Rajesh Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 06-10-2017

Heard learned counsel for the petitioner and the learned
Additional Public Prosecutor appearing on behalf of the State.

2. The petitioner seeks quashing of order dated
02.09.2013, passed by Sub-divisional Officer, Muzaffarpur, West in
Case No. M1037 of 2013 whereby he has converted a proceeding
earlier initiated under Section 144 Cr.P.C. to 145 Cr.P.C.

3. Learned counsel for the petitioner submits that already
the dispute between the parties have been decided by a competent
court of civil jurisdiction with respect to the same pieces of land in
Partition Suit No.63 of 2000. In that case Most. Chameliya Devi was



the plaintiff who is the first party in the proceeding at present and rest others, the defendants are second party in the present proceeding. Chameliya Devi has filed Partition Appeal No.68 of 2009, which is still sub-judice and pending in the court of Muzaffarpur, so considering the rival submissions and on perusal of the records, it appears that already with respect to the subject in dispute between both parties in the present proceeding, the court of competent civil jurisdiction has passed the judgment and decree relating to title and possession and the Partition Appeal is still pending, so the Executive Magistrate has got no jurisdiction to decide the factum of possession of the land in dispute in a proceeding under Section 145 Cr.P.C., so the impugned order dated 02.09.2013, passed in Case No. M1037 of 2013 by Sub-divisional Officer, Muzaffarpur, West is set aside.

4. The quashing application stands allowed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.10.2017
Transmission Date	10.10.2017

