

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.51796 of 2013

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

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Dilendra Sah, S/O Kanaklal Sah, Resident of Village- Tulsiyahi, Saharsa, P.S-
Bihra & District- Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar
2. Upendra Sah, S/O Boku Sah, Resident of Village- Tulsiyahi Saharsa, P.S- Bihra
& District- Saharsa.
3. Bijay Sah, S/O Upendra Sah, Resident of Village- Tulsiyahi Saharsa, P.S- Bihra
& District- Saharsa.
4. Ajay Sah, S/O Upendra Sah, Resident of Village- Tulsiyahi Saharsa, P.S- Bihra
& District- Saharsa.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL JUDGMENT

Date: 11-09-2017

Heard learned counsel for the petitioner, learned
counsel for the opposite party nos. 2 to 4 and the learned counsel for
the State.

2. This application, under Section 482 of the Code of
Criminal Procedure, is directed against the Judgment dated
03.10.2012 passed in Criminal Revision No. 83 of 2012, whereby the
learned Adhoc Additional Sessions Judge-I, Saharsa, allowed the
aforesaid criminal revision preferred against the order dated



04.02.2012 passed in Misc. Case No. 942 of 2011 filed on behalf of the first party/petitioner, whereunder the learned Sub-Divisional Magistrate, Saharsa, dismissed the proceeding, under Section 144 Cr.P.C.

3. The sole submission of the learned counsel for the petitioner is that he was made party as opposite party no. 2 in Criminal Revision No. 83 of 2012 but the learned Adhoc Additional Sessions Judge-I, Saharsa without issuing the notice and giving opportunity to the petitioner for hearing illegally allowed the aforesaid criminal revision.

4. Learned counsel for the opposite party nos. 2 to 4 submits that there is no illegality in the impugned order but fairly conceded that the notice was not issued to the opposite party no. 2-petitioner in Criminal Revision No. 83 of 2012. Moreover, the life span of order dated 04.02.2012 passed by the S.D.M., Saharsa, under Section 144 Cr.P.C. in Misc. Case No. 242 of 2011 was only 60 days, which has already been expired much before and the same has no effect in respect to right title of the parties.

5. Since, the Criminal Revision No. 83 of 2012 preferred by the opposite party nos. 2 to 4 is allowed without giving notice for hearing to the petitioner. As such, the impugned order dated 03.10.2012 passed in Criminal Revision No. 83 of 2012 without



giving opportunity of hearing to opposite party no. 2-petitioner, appears to be illegal and amounts to abuse of the process of the court.

6. In the result, the Judgment dated 03.10.2012 passed in Criminal Revision No. 83 of 2012 is hereby quashed and this application is allowed.

(Rajendra Kumar Mishra, J)

Bhardwaj/-

AFR/NAFR	
CAV DATE	
Uploading Date	14.09.2017
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