

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.39500 of 2014

- =====
1. Ram Nandan Das Son of Late Puran Das
 2. Rameshwar Das Son of Late Chutkun Das
 3. Ram Das Son of Late Puran Das All resident of Village - Deona Khurd @ Baligarh, P.S. - Runnisaidpur, District- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Prakash Kishore Singh Son of Late Raj Kishor Singh Resident of Village - Deona Khurd @ Balagarh, P.S. - Runnisaidpur, District - Sitamarhi.
3. Pratap Kishore Singh, son of Late Raj Kishore Singh, Resident of Village- Deona Khurd, P.S. Runnisaidpur, District- Sitamarhi.

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Alok Kumar Jha, Advocate
For the State	:	Mr. R.N.Jha, APP
For the O.P. No.2	:	Mr. Sanjay Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 01-09-2017

Heard learned counsels for the petitioners, State and opposite parties.

The petitioners are aggrieved by the order dated 16.4.2012 passed in Case No. 1548/2011 by learned Sub-Divisional Magistrate, Sitamarhi Sadar by which the he has attached the land in question and the order dated 9.1.2014 passed by the 1st Additional Sessions Judge in Criminal Revision No. 156 of 2012/ 36 of 2013 affirming the order of the Sub-Divisional Magistrate.

Counsel for the petitioners submits that Title Suit No.



71/2012 is pending between the parties before the competent Court of civil jurisdiction and as such the exercise of jurisdiction by the learned Sub-Divisional Magistrate under Section 146 (i) of the Code of Criminal Procedure is abuse of the process particularly in view of the fact that there is no emergent situation warranting such exercise of power.

Counsel for the Opposite Parties has submitted that there is no demarcation of the land and there is every likelihood of breach of peace and as such the Sub-Divisional Magistrate was justified in exercising jurisdiction under Section 146(i) of the Code of Criminal Procedure.

Having heard the parties and considering the fact that the competent court of civil jurisdiction is seized of the matter where the dispute with regard to the land in question can be adjudicated and as such in the absence of emergent situation warranting exercise of jurisdiction under Section 146(i) Cr.P.C. the power exercised by the Sub-Divisional Magistrate is uncalled for and the order passed by the Revisional Court in the instant case is failure of exercise of jurisdiction.

Having regard to the facts and circumstances of the case, the Court is inclined to exercise jurisdiction under Section 482 of the Code of Criminal Procedure and set aside the order



passed by the Sub-Divisional Magistrate attaching the land in question vide order dated 16.4.2012. As the Title Suit with regard to the land in question is pending since 2012, it is desirable that the suit itself be disposed of at the earliest so that the dispute between the parties is set at rest.

By disposing of this application the Court deems it fit and proper to grant liberty to the parties to file a petition before the Court below where Title Suit No. 71/2012 is pending for expeditious disposal of the suit and the court below is directed to proceed with the case without granting unnecessary adjournment in the case and try to dispose of the same at the earliest preferably within a period of six months in order to set at rest the dispute between the parties with regard to the land in question. In the result the order dated 16.4.2012 passed by SDM, Sitamarhi (Sadar) in Case No. 1548 of 2011 is quashed.

With the aforesaid observation, the application stands allowed.

(Anil Kumar Upadhyay, J)

S.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
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