

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.29841 of 2014

Arising Out of PS.Case No. -295 Year- 2013 Thana -GAYA COMPLAINT CASE District- GAYA

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1. Sushil Singh Son of Late Subedar Singh Resident of Village-Pipra, Police Station-Dumariya, District-Gaya.
 2. Mahendra Singh Son of Late Subedar Singh Resident of Village-Pipra, Police Station-Dumariya, District-Gaya.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Sub Divisional Officer, Sherghatti, Gaya.
3. The Circle Officer, Dumariya, Gaya.
4. The Station House Officer, Dumariya, Gaya.
5. Satyendra Kumar Singh Son of Sri Kishori Mohan Singh Resident of Village-Pipra, Police Station-Dumariya, District-Gaya.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Khatim Reza
For the Opposite Party/s : Mr. Humayu Ahmad Khan

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 04-07-2017

1. Heard both sides.
2. This is an application filed under Section 482 of the Cr.P.C. praying therein to quash the order dated 10.06.2014, passed by the S.D.M., Sherghati, Gaya.
3. The learned counsel for the petitioners submits that in a proceeding under Section 145 of the Cr.P.C., the S.D.M. called for a report from S.H.O. with respect to the land. The said report was not received and without going into the merit of the case, attached the land in dispute and appointed S.H.O. Dumariya as receiver and



custodian of the land. He referred annexure-1-A which is report of S.H.O. of Dumaria police station submitted on 21.01.2014. He further referred the order passed in a proceeding under Section 145 of the Cr.P.C. The said proceeding was disposed of with an observation that the dispute between the parties was purely a civil dispute. The learned S.D.M. has erred in attaching the land under Section 146(1) of the Cr.P.C. and so the same is fit to be quashed.

4. The learned APP, on the other hand, concedes to the submissions of the learned counsel for the petitioners that the dispute between the parties is purely a civil dispute as both parties claim title over the said land.

5. On perusal of the impugned order, I find that a report was called for from the S.H.O. as regards nature of the dispute between the parties. The Annexure-1-A appended to this application shows that after inquiry, the police submitted the report on 21.01.2014 wherein it was reported that there was apprehension of breach of peace between the parties for taking possession over the disputed land. The said report was available on record, but even then it was not considered by the S.D.M. There was absolutely no material before S.D.M. to observe that the area where disputed land situates was affected by extremist and party to the proceeding were adamant to take possession with their help. It further appears that the proceeding initiated



between the parties vide Miscellaneous Case No. 295 of 2013, in which the order of attachment was passed, has been dropped on 04.11.2016. The dispute between the parties was appeared to be civil dispute and the S.D.M. observed that the parties were at liberty to take shelter of competent court for redressal of their grievance.

6. In view of the above discussions, I find that the order of attaching the property was passed without any material on record. The said order dated 10.06.2014, in view of above discussions, is not sustainable and is, accordingly, quashed. The application is allowed.

(Sanjay Kumar, J)

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