

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.390 of 2015

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1. Sagar Mahto
2. Ashok Mahto Both are sons of Late Mahabir Mahto resident of Village-
Garib Nagar, P.S. - Surjgarha, Distt.- Lakhisarai.

.... Petitioner/s

Versus

1. The State of Bihar
2. Ram Chandra Paswan S/o late Cheta Paswan
3. Prayag Paswan
4. Pawan Paswan
5. Nand Lal Paswan All are sons of Late Jhakshu Paswan
6. Baleshwar Paswan
7. Ram Chandra Paswan
8. Ganesh Paswan
9. Siya Sharan Paswan All are sons of Late Bijli Paswan
10. Sita Devi, W/o Late Jhakshu Paswan All are resident of Village- Garib
Nagar, P.S. - Surjgarha, Distt.- Lakhisarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Verma
For the Respondent/s : Mr. Dr. Indihar Kumari (App)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

3 13-02-2017 Heard learned counsel for the parties.

2. An order, dated 07.01.2015, passed by the learned Executive Magistrate, Lakhisarai in case No. 89M/2003 in purported exercise of power under Section 145 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the **Code**) is under challenge in the present criminal revision application filed under Sections 397 read with 401 of the Code.

3. Section 145(1) of the Code reads thus:-

"Section 145(1) Whenever an



Executive Magistrate is satisfied from a report of a police officer or upon other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within his local jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, on a specified date and time, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute."

4. I have perused the order impugned. The order does not record satisfaction of the Magistrate that a dispute likely to cause a breach of peace existed concerning any land or water in question. It is condition precedent for exercise of power under Section 145 of the Code of Criminal Procedure by making an order, to record in writing a satisfaction that the dispute between the parties was likely to cause a breach of peace. The impugned order is, therefore, beyond jurisdiction, which is, accordingly, set aside.

6. This application is allowed.

ArunKumar/-

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(Chakradhari Sharan Singh, J)

