

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1079 of 2016

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Govind Jha son of Late Kali Charan Jha Resident of Village Nanaur, P.S.
Rudrapur, District Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Superintendent of Police, Madhubani.
3. The Deputy Superintendent of Police, Jhanjharpur, District Madhubani.
4. The Sub Divisional Magistrate, Jhanjharpur, District Madhubani.
5. The Station House Officer, Rudrapur Police Station, District Madhubani.
6. Jagarnath Chaudhary son of Shyam Chaudhary, Resident of Village Nanaur, P.S. Rudrapur, District Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Jha, Adv.

For the Respondent/s : Mr. Md.Nadim Seraj (Gp-5)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

2 16-08-2018

It is the case of the petitioner that he has filed a case being M.R. No. 359/2012 under Section 145 of the Code of Criminal Procedure before the Sub-Divisional Magistrate, Jhanjharpur in which no order under Section 146 Cr.P.C. has been passed against the petitioner. The said case is still pending before the learned Sub-Divisional Magistrate, Jhanjharpur.

The grievance of the petitioner is that whenever he goes on the pond in question, the S.H.O., Rudrapur Police Station, Madhubani comes there and without there being any legal or valid order of the court he restrains the petitioner from using the pond in question on which the petitioner claims to be in peaceful possession over the same.



Learned counsel for the State is present and submits that in fact, the petitioner has a dispute with respect to the pond in question with his own brother and the matter seems to be pending in 145 Cr.P.C. proceeding.

Be that as it may, let the 145 Cr.P.C. proceeding being M.R. No. 359/2012 said to be pending in the court of learned Sub-Divisional Magistrate, Jhanjharpur be disposed off within a period of 90 days from the receipt/production of a copy of this order.

It is made clear that save and except to take necessary steps for maintaining law and order situation, the S.H.O. shall have no right to restrain the petitioner from going on the pond without there being a legal and valid order of a competent court of law. This should not, however, mean and understood that this Court made any observation with respect to possession of the petitioner over the said pond. The question of possession and the issues involved in 145 Cr.P.C. proceeding will be answered by the competent authority in accordance with law.

This writ application is disposed off.

(Rajeev Ranjan Prasad, J)

Arvind/R.R.Ojha/Ved

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