

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.289 of 2015

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1. Mannan Dewan son of Late Hafiz Dewan
 2. Serajuddin Dewan son of Late Rafique Dewan
 3. Sharfuddin Dewan son of Late Rafique Dewan
 4. Khairuddin Dewan son of Late Rafique Dewan
 5. Zulfakar Dewan son of Late Jan Md. Dewan
 6. Alauddin Dewan son of Late Karmullah Dewan
 7. Ibrahim Sayeem son of Late Rafique Dewan
 8. Sanaullah Dewan son of Late Tejarat Dewan
 9. Shafi Mohammad son of Late Shaheed Dewan
 10. Naseer Dewan son of Late Shaheed Dewan
 11. Zainuddin Dewan son of Late Hafiz Dewan
 12. Alfaz Dewan son of Late Israil Dewan
 13. Arif Dewan son of Late Mahmood Dewan
 14. Ekhlague Dewan son of Late Israil Dewan
 15. Rabdin Dewan son of Late Kamrullah Dewan
 16. Seraj Dewan son of Late Israil Dewan
 17. Meraj Dewan son of Late Israil Dewan
 18. Abdul Khair Dewan son of Late Hafiz Dewan
 19. Nasrullah Dewan son of Late Antullah Dewan
 20. Shamsul Dewan son of Late Tijarat Dewan
 21. Nayeem Dewan son of Late Mahmood Dewan
 22. Quadir Dewan son of Late Mahmood Dewan
 23. Nazirul Dewan son of Late Asim Dewan
 24. Shahabuddin Dewan son of Late Karmullah Dewan All residents of Village Chilraon, Police Station Turkaulia, District East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar Through District Magistrate, East Champaran, Motihari.
2. The Sub Divisional Magistrate, Motihari, District West Champaran.
3. The Circle Officer, Tirkaulia, Police Station Tirkaulia, District East Champaran.
4. Loknath Sharma
5. Subodh Sharma
6. Sudhanshu Kumar Sharma
7. Sri Ram Sharma Nos. 4 to 8 son of Late Kunj Bihari Sharma residents of Mohalla Agarawa, Police Station Motihari, District East Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Khatim Reza

For the Respondent/s : Mr. Ashok Kumar Singh (App)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER



7 16-01-2018 The petitioners have challenged the order dated 23.08.2014 passed by the learned Sub Divisional Officer, Sadar, Motihari in Case No. 1478M of 2005, whereby the prayer of the petitioners for dropping the proceedings under Section 145 Cr.P.C. has been rejected.

Shorn of details, the developments in this case can be traced as follows:

At the instance of the petitioners, a proceeding under Section 144 of the Cr.P.C. was initiated on 15.12.2005 which was converted into a proceeding under Section 145 of the Cr.P.C. on 07.02.2006 and the land in question was attached by invoking the powers under Section 146 of the Cr.P.C.

The opposite parties challenged the order of conversion, but the same was dismissed. The proceedings under Section 145 of the Cr.P.C. continued for a shortwhile, when because of some reasons, including political interference, the proceedings were stayed by the conducting officer, viz. the Sub Divisional Officer of the concerned Sub-division.

The order by which the proceedings were stayed was set aside by a Bench of this Court. The proceedings thereafter continued.

The present petition has been filed on the strength of



a judgment of division Bench of this Court in the case of ***Ram Chandra Rai vs the State of Bihar & Ors*** reported in ***1991(1) PLJR 36***, wherein it has been held that if there is no apprehension of breach of peace, there would be no justification for a proceeding to be continued under Section 145 of the Cr.P.C. any further and specially after the passage of about seven years.

Mr. Khatim Reza, learned Advocate for the petitioners, has submitted that more than seven years have elapsed since the proceedings were converted into one under Section 145 of the Cr.P.C. and till date it has not yet been concluded. He has further submitted that no evidence has been brought on record to suggest that there could be a possibility of breach of peace, if the proceedings are closed.

Opposing the aforesaid submissions of the learned counsel for the petitioners, Mr. Vikash Sharma, learned Advocate for the O.Ps. has submitted that no time limit can be fixed for concluding the proceeding under Section 145 of the Cr.P.C. He has further submitted that, no doubt, Sections 145 and 146 of the Cr.P.C. are in the nature of emergency proceedings, but by the very nature of the proceeding under Section 145 of the Cr.P.C., it cannot be postulated that the proceedings ought to be concluded within a particular time frame as no such mandate has been given



under the provisions of the Cr.P.C., specially in Section 145 of the Cr.P.C. It has been submitted that, no doubt, a proceeding cannot be continued for eternity, but the facts of this case do not brook of a situation where the court below could have dropped the proceeding at the instance of the petitioners.

Perused the order impugned.

From a bare perusal of the sequence of events, it appears that the proceedings before the learned court below remained stayed since 22.05.2010, which order was set aside by the order dated 09.04.2014 passed by a Bench of this Court in C.W.J.C. No. 779 of 2013. Thus, for all practical purposes, the proceedings were revived from 26.08.2014 when notices were issued to both the sides. It further appears from the order impugned that tension prevails between the parties with respect to the possession of the land in question.

Considering the aforesaid facts, it would not be prudent or in the interest of justice or for the benefit of the parties that the proceedings be dropped.

This Court does not find any anomaly in the order impugned. However, considering that an emergent provision in the Cr.P.C. cannot be used for keeping a proceeding pending for an indeterminate period, it is observed that the proceedings be



conducted on a Quotidian basis and be concluded as expeditiously as possible. It is expected of the parties to render full cooperation in the proceedings.

This Court has also taken note of the fact that none of the parties have initiated any case before the civil court to ascertain their respective Titles.

With the aforesaid observation, the present Cr. Rev. petition is disposed off.

(Ashutosh Kumar, J.)

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