

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.7149 of 2016

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1. Jitendra Singh, son of Late Mundrika Singh
2. Harendra Singh, son of Late Mundrika Singh
3. Rakesh Singh, son of Wakil Singh
4. Bijendra Singh, son of Harendra Singh All residents of Deorihi, P.S.- Ara Mufassil, District- Bhojpur.
5. Yogendra Singh, son of Gaya Singh
6. Ashok Singh, son of Yogendra Singh Nos. 5 and 6 are residents of Udaibhanpur, P.S.- Kishanganj, District- Bhojpur.
7. Bhola Singh, son of Late Bikarmaditya Singh, resident of Village- Karari, P.S.- Ara Mufassil, District- Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Mahabir Das, Chela Late Ram Lakhan Das, resident of Karara Math, P.S.- Ara Mufassil, P.O.- Basantpur, District- Bhojpur.
3. Jai Shankar Singh, son of Late Chandradeep Singh
4. Jeetan Singh, son of Late Jamuna Singh null
5. Birendra Singh, son of Late Ram Ekbal Singh, Nos. 3 to 5 are residents of Deorhi, P.S.- Ara Mufassil, P.O.- Basantpur, District- Bhojpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Anish Chandra Sinha-Advocate Mr. Krishna Murari Raut-Advocate Mr. Sangh Mitra Ghosh-Advocate
For the O.P. No.2	:	Mr. Vivek Kumar Singh-Advocate Mr. Surendra Singh-Advocate
For the State	:	Mr. Parmeshwar Mehta-A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

03 25-10-2018

Heard learned counsel for the petitioners as well as
learned Additional Public Prosecutor along with learned counsel
for the O.P. No.2.

Petitioner is aggrieved by an order dated 12.09.2015
passed by the S.D.M., Bhojpur at Ara in Misc. Case No.340 of
2014, whereby and whereunder the learned Magistrate has



attached the disputed plot in accordance with Section 146(1) of the Cr.P.C. Order impugned is based upon a prayer having made at the end of the opposite party no.2 on 20.02.2015 (Annexure-7). After minute observation of the same, it is apparent that no case of emergency is found properly exposed and in likewise manner, the order impugned also suggests. The most interesting feature of the order impugned is that the police report which happens to be the basis of initiation of proceeding under Section 144 Cr.P.C. in the Year 2014, has been considered while passing impugned order.

Accordingly, the order impugned is set aside. Petition is allowed. However, it is made clear that in case of emergency, so exits, the learned lower Court will be free to pass order in accordance with law.

(Aditya Kumar Trivedi, J)

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