

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1037 of 2016

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Uma Shankar Pandey Son of late Ram Das Pandey, Resident of Village-
Rampur Jailari, P.S.- Shiv Sagar, District- Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department.
2. The Anchal Adhikari, Shiv Sagar, District- Rohtas.
3. The Officer In-Charge, Shiv Sagar, District- Rohtas.
4. Madan Mohan Pandey, Son of Late Brikesh Pandey, Resident of Village- Rampur Jailari, P.S.- Shiv Sagar, District- Rohtas.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anuj Kumar, Advocate

For the Respondent/s : Mr. Ram Balak Mahto, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

2 14-08-2018 Mr. Yogesh Chandra Verma, learned senior counsel

has though attempted to test the nerve of the Court for some time, but then fairly accepted the legal position with regard to the scope and ambit of Section 144 of the Code of Criminal Procedure. Apparently the order, as contained in Annexure 4 to the writ application, is bad in the eye of law, inasmuch as the Sub-Divisional Magistrate, Sasaram had no business to go into the issue with regard to right and possession of the party over a piece of land and he could not have directed for demolition of the wall standing on disputed land. Since the order of the Sub-Divisional Magistrate, Sasaram was wholly illegal, arbitrary and without jurisdiction, in the opinion of this Court, the learned Sessions



Judge, Rohtas has rightly interfered with the same in Criminal Revision No. 122 of 2016 by setting aside the said order. No illegality may be found with the order passed in revision by the learned Sessions Judge. Mr. Verma has a contention that an order under Section 144 Cr.P.C. is normally known as a police order and has its validity for a period of 60 days only. Therefore, the learned Sessions Judge was not required to set aside the order passed by Sub-Divisional Magistrate and would have been taken note of the legal position that the order passed by Sub-Divisional Magistrate has lost its validity and significance on expiry of period of 60 days. Ordinarily what Mr. Verma has contended is correct but going through the nature of the order passed by the Sub-Divisional Magistrate this Court finds that the manner in which the said order is passed and written it was necessary for the learned Sessions Judge to set aside the said order and on that reason alone the learned Sessions Judge had no option but to set aside the entire order passed by learned Sub-Divisional Magistrate.

I find no merit in this writ application, it is dismissed.

(Rajeev Ranjan Prasad, J)

Arvind/R.R.Ojha/Ved

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