

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.479 of 2015

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Smt. Nira Devi @ Nira Devi, Wife of Tarkeshwar Gupta, r/o
Town Madhubani, Ward No. 11, P.S.-Madhubani, Distt.-
Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Md. Habin, Son of Late Md. Jan, r/o Town Madhubani,
Ward No. 11, Milat Colony, P.S. Madhubani, Distt.-
Madhubani.

.... Opp. Party (2nd Set)

3. Tarkeshwar Gupta, S/o Late Mohan Pd. Gupta.
 4. Pawan Kumar Gupta, S/o Late Mohan Pd. Gupta.
 5. Ramashish Thakur, S/o Ramhit Thakur.
 6. Mahabir Thakur, S/o of Ram Ashish Thakur.
 7. Deepak Prasad, S/o Munshi Prasad.
 8. Shyam Nandan Jha, S/o not known.
- All are r/o Town Madhubani, Ward No. 11, P.S. Madhubani,
Distt.-Madhubani.

.... Opp. Party (3rd Set)

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Appearance :

For the Petitioner/s : Mr. Kritya Nand Jha, Adv.
Mr. Rajiv Ranjan Kr. Pandey, Adv.

For the State : Mrs. Indu Bala Pandey, APP

For the O.Ps. : Mr. Raj Kumar, Adv.
Mr. Ratnakar Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER



6 12-04-2018 The petitioner has challenged the order dated 26.02.2015, passed by the learned 5th Additional Sessions Judge, Madhubani in Cr. Revision No. 114 of 2011, whereby the order passed by the learned Sub-Divisional Magistrate, Madhubani in M.R. No. 440 of 2008, rejecting the request of the opposite parties for dropping the proceedings on the ground of pendency of a Title suit between the parties, has been set-aside.

Learned counsel for the petitioner has drawn the attention of this Court to the Title suit referred to by the opposite parties before the learned Revisional Court. The land scheduled in the aforesaid Title suit does not refer to Plot No. 316, over which the petitioner has apprehension of breach of peace.

It appears that the learned Revisional Court did not look into the plaint of the Title suit and has set-aside the order of the learned Magistrate. True it is that in case of pendency of a Title suit between the parties, it is only advisable that there should not be two parallel proceedings with respect to possession and in case there is any apprehension of breach of peace, corrective measures could be obtained by way of injunction or restraining order from the competent Civil Court, but that is only possible if the civil suit pertains to the same plot of land.



Since learned counsel for the petitioner has limited his prayer only to the dispute over Plot No. 316, which is not part of the property schedule in the Title suit, the revisional order is not sustainable on facts.

As such, the order impugned dated 26.02.2015, passed in Cr. Revision No. 114 of 2011, is set-aside.

The order of the learned Magistrate is restored. The proceedings under Section 147 Cr.P.C. be resumed and concluded as early as possible.

Needless to state that any dispute with respect to plot Nos. 315 and 317, for which a Title suit is pending, shall be outside the purview of the discussion by the learned Magistrate in the aforesaid proceedings.

(Ashutosh Kumar, J)

Praveen-II/-

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