

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.51980 of 2014

Arising Out of PS. Case No.- Year- Thana- District- Vaishali

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1. Deoki Nandan Pandey son of Late Jagdish Pandey
 2. Mithu Pandey @ Uttam Pandey
 3. Din Dayal Pandey,
- Both are sons of Deoki Nandan Pandey
All are resident of village Mile, P.O. Bhairour Deodhi, P.S.
Bidupur District Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Krishna Thakur son of Raghubans Thakur
3. Gaytri Devi wife of Krishna Thakur and D/o Late Brahnandan Thakur @
Pandey Both are resident of village Mile P.O. Bahadurpur Deodhi, P.S.
Bidupur, District Vaishali.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ratan Kumar Sinha
For the Opposite Party/s : Mr. Ajay Kumar No. 1, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL JUDGMENT

Date : 12-07-2018

Heard learned counsel for the petitioners and learned
counsel for the State.

Petitioners seek quashing of order dated 10.11.2014
passed by the Sub Divisional Magistrate, Hajipur at Vaishali in M1
Case No. 2815 of 2014 subsequent to notice dated 11.11.2014
whereby proceeding earlier initiated under Section 144 Cr.P.C. was
converted into a proceeding under Section 145 Cr.P.C.

Submission is that with regard to land in question in
connection of impugned order converting a proceeding earlier
initiated under Section 144 Cr.P.C. to Section 145 Cr.P.C. is not
maintainable as such proceeding cannot be initiated in view of



partition suit pending with respect to same land in between the parties, in fact prior to present proceeding O.P. No. 3, wife of Krishna Thakur, had earlier filed a Title Partition Suit No. 699 of 2014 in which both sides are parties and that matter is still *sub judice* as the competent Court of civil jurisdiction is examining the question of title as well as possession of the land in question hence parallel proceeding cannot be permitted to proceed.

None appears on behalf of the O.P. Nos. 2 and 3 despite their appearance.

The Court finds that prior to conversion of the instant proceeding under Section 145 Cr.P.C. with respect to the land in question, already a partition suit was filed by the O.P. No. 3, wife of the first party in the court below. The subject matter of the partition suit includes the present land in question along with other plots. In this factual aspect, the Civil Court of competent jurisdiction is already examining the question of title and possession with respect to the land in question relating to the factum of possession. The parties may approach the Civil Court seeking injunction in case of any occasion likely to result into breach of peace or in case of attempt of changing the *status quo* of the land. It is settled proposition that two parallel proceeding for the same reason cannot be allowed more particularly when title



suit/partition suit is pending between the parties. So the impugned order dated 10.11.2014 and subsequently notice issued to the petitioners dated 11.11.2014 passed by the Sub Divisional Officer, Hajipur in M1 Case No. 2815 of 2014 is set aside. The application stands allowed.

(Arun Kumar, J)

sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
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