

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30065 of 2013

Arising Out of PS.Case No. -81 Year- 2012 Thana -BUXAR MUFFSIL District- BUXAR

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1. Vinay Singh, son of Bachan Singh,
 2. Vikash Singh @ Vikash Kumar Singh, son of Bachan Singh,
 3. Vijai Singh @ Sanu @ Vijay Kumar Singh, son of Bachan Singh,
 4. Ravi Singh, son of Rajendra Singh,
 5. Vinit Singh @ Vinit Kumar Singh, son of Nepal Singh, all resident of village Mahadah, P.S. Buxar (M), District Buxar.

.... Petitioner/s

Versus

1. The State of Bihar
2. Naina Devi, w/o late Gulabjee Singh,
3. Pankaj Kumar Singh, son of late Gulabjee Singh,
4. Rajiv Kumar Singh, son of late Gulabjee Singh, all resident of village-Rupasnagar, PO & PS-Nawanagar, District-Buxar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vindya Keshari Kumar, Sr. Advocate
Mr. Neeraj Kumar @ Sanidh, Advocate
For the Opposite Party/s : Mr. APP
Mr. Ambuj Nayan Choubey, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 01-02-2018

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 11.01.2013 passed by the Chief Judicial Magistrate, Buxar, in G.R. No.745 of 2012/Tr. No.2726 of 2013 arising out of Buxar (M) P.S. Case No.81 of 2012 by which the learned Magistrate has taken cognizance against the petitioners for the offence under Section(s) 143, 379, 506 Indian Penal Code.

2. Counsel for the petitioners has submitted that



proceeding under Section 144 Cr. P. C. is going on between the Complainant's father-in-law, Bankteshwar Singh, and the accused-petitioners for the same plot. Aforesaid proceeding under Section 144 Cr. P. C. was converted into 145 Cr. P. C. by order dated 04.06.2013 and possession of the parties over the disputed land is to be decided in the proceeding.

3. Counsel for the petitioners has further submitted that the Complainant has made claim over the aforesaid land on the basis of the order passed by the Permanent Lok Adalat on the basis of compromise. Aforesaid order of Permanent Lok Adalat was passed in Pre Litigation Case No.239 of 2011 on 18.11.2011. Aforesaid order was challenged by the petitioner no.1 before the Hon'ble High Court in CWJC No.12276 of 2012. The Hon'ble Court by order dated 01.07.2013 has stayed the order dated 18.11.2011 passed by the Permanent Lok Adalat. Counsel for the petitioners has further submitted that after challenging the award of the Permanent Lok Adalat, petitioners have also filed Title Suit being Title Suit No.590 of 2012 before the Sub Judge, 1st, Buxar, which is still pending.

4. Counsel for the petitioners has submitted that crops were cultivated by the petitioners and others on the disputed land, which fact came into the enquiry report of the Circle Officer



dated 07.12.2012, which has been annexed as Annexure-8 to the Supplementary Affidavit. Enquiry was made by the Circle Officer in respect of Case No.102 of 2012 with regard to the disputed land.

5. Written report has been filed by the Informant alleging that his father-in-law, Bankteshwar Singh, had two brothers. Partition had taken place between two brothers, namely, Tugnath Singh and Bankteshwar Singh and both brothers are in possession of their respective land. Sons of Tugnath Singh were putting pressure to his father-in-law, Bankteshwar Singh, to give the property which he refused. Thereafter, father-in-law of the Complainant decided to divide the share equally among two daughters and with respect to the aforesaid, partition application was filed before the Permanent Lok Adalat, Buxar, and both daughters and father-in-law, Bankteshwar Singh, compromised the matter in the Permanent Lok Adalat and got share in the property. Petitioners were not made parties in the aforesaid petition before the Permanent Lok Adalat. Thereafter, order of Permanent Lok Adalat was challenged in Hon'ble Court by filing CWJC No.12276 of 2012 (Annexure-6) by which order of Permanent Lok Adalat dated 18.11.2011 has been stayed.

6. Counsel for the Opposite Party No.2 has appeared and submitted that at this stage only *prima facie* case is to be looked



into. All the materials, which have been relied upon by the accused-petitioners were brought after the order of cognizance. He has further submitted that all these can be looked into during trial and not at the stage of cognizance. In this respect, he has relied on the decision of the Hon'ble Supreme Court in the case of ***Umesh Kumar Vs. State of Andhra Pradesh*** reported in (2013) 10 SCC 591.

7. This Court after looking into the allegation in the written report as well as facts that already proceeding under Section 145 Cr. P. C. is pending between the parties for deciding the possession over the disputed land, finds that this is a case of bonafide land dispute between the parties. It further appears that the Complainant is making claim over the land on the basis of the award given by the Permanent Lok Adalat, which has been challenged by the petitioners before the Hon'ble Court. The award of the Permanent Lok Adalat has been stayed. The petitioners have also filed Title Suit challenging the award granted by the Permanent Lok Adalat vide Title Suit No. 590 of 2012 before the Sub Judge, 1st, Buxar.

8. Counsel for the petitioner has filed Supplementary Affidavit by which he has brought Enquiry Report of the Circle Officer dated 07.12.2012 (Annexure-8), wherein, it has been clearly



mentioned that paddy was cultivated by these petitioners on the disputed land. Therefore, this is matter of bonafide land dispute between the parties.

9. In view of such, this Court is of the view that continuance of the criminal proceeding against these petitioners will be abuse of process of law.

10. Accordingly, impugned order dated 11.01.2013 passed by the Chief Judicial Magistrate, Buxar, in G.R. No.745 of 2012/Tr. No.2726 of 2013 arising out of Buxar (M) P.S. Case No.81 of 2012 along with entire criminal proceeding against the petitioners is hereby quashed.

11. The application is, accordingly, **allowed**.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	20-02-2018
Transmission Date	20-02-2018

