

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.533 of 2016

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

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Vishwanath Singh, son of Late Thagan Singh, resident of village – Mazirabad,
P.S. - Goraul, district - Vaishali

... .. Petitioner/s

Versus

1. Sachidanand Singh, son of Late Arjun Singh, resident of village –
Mazirabad, P.S. - Goraul, District – Vaishali
2. The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shrinandan Prasad Singh Sr. Advocate Mr. Manoj Kumar No.-1 Advocate
For the Respondent/s	:	Ms. Md. Sufiyan APP
For the O. P. No. 1	:	Mrs. Shama Sinha Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

5 24-08-2018 The present application has been filed against the order dated 28th of March, 2016 passed by the learned Sub-Divisional Magistrate, Mahua in Case No. 974 of 2015 / 826 of 2016, whereby the proceedings under Section 145 of the Code of Criminal Procedure initiated at the instance of the petitioner has been dropped on the plea that a civil suit / Title Suit is pending before a competent court of law and hence there was no requirement of continuing with a parallel criminal proceeding.

Ms. Shrinandan Singh, learned senior advocate has submitted that the Title Suit was filed by the



Opposite Party No. 1 only for the purposes of frustrating the effort of the petitioner in having the issue of possession decided. The aforesaid Title Suit was dismissed for non-prosecution and hence it is submitted that the filing of the aforesaid title suit was only a ploy to deflect the course adopted by the petitioner in preferring an application seeking initiation of a proceeding under Section 145 of the Code of Criminal Procedure over the plot of land in question.

Ms. Shama Sinha, learned advocate for Opposite Party No. 1, however, has submitted that the Title Suit has been restored and the petitioners have filed their written statement as well. It has further been submitted that if a civil litigation is pending over a property, wherein the question of possession is involved, there would have no justification for initiating a parallel criminal proceeding under Section 145 of the Code of Criminal Procedure.

Thus, it appears that the issue with respect to possession can safely be decided by the competent civil court which is now beset with deciding the title and possession of the parties in dispute.

There cannot be any doubt or dispute over the position of law that decree of a civil court is binding on all the courts, including the criminal court.



Thus, no fault is found with the order of the learned Magistrate.

It would be open for the petitioners to obtain interim orders / restraining orders against the Opposite Party from the competent civil court. This would only avoid multiplicity of litigation and would be in the interest of both the parties.

Thus, with the aforesaid observation, the present petition is disposed off.

(Ashutosh Kumar, J)

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