

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.56528 of 2018

In
Criminal Writ Jurisdiction Case No.699 of 2018

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

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Ashok Kumar Rai @ Ashok Rai, Son of Harendar Rai, Resident of Village-
Pahleza, Sahpur, Diara, P.S.- Sonapur, District- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar, Through Directorate General of Police, Sachivalaya, Patna.
2. The District Magistrate, Saran, Chapra.
3. The Superintendent of Police, Saran, Chapra.
4. The Police Inspector, Sonapur, Saran, Chapra.
5. The Officer-in-Charge, Police Station, Sonapur.
6. Sailendar Kumar Rai, Son of Late Sitalnarayn Rai, R/o Village- Pahleza, Sahpur Diara, P.S.- Sonapur, District- Saran.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Tiwary
For the Opposite Party/s : Mr. Sheo Shankar Prasad(Sc-8)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 12-12-2018 Heard learned counsel for the parties and perused the records.

This application has been preferred seeking modification of the order dated 26.07.2018 passed in Cr.W.J.C. No. 699 of 2018. By the said order, in the nature of the controversies involved in this case, this Court came to a conclusion that it would not be in a position to issue a direction as sought for, however, the petitioner is given liberty to pursue his remedy as may be advised in accordance with law.

Now by filing the modification application, learned counsel for the petitioner submits that the order dated



17.02.2016 by which an attachment under Section 146 (1) was done and a Receiver was appointed, had been set-aside by a revisional Court and, therefore, after setting-aside of the said order now steps be taken by the authorities concerned to open the lock which has been put by the respondent no. 6 illegally and in complete contravention of law.

On the other hand, learned counsel representing the respondent no. 6 submits that the order passed by the revisional Court is subject to challenge in Cr. Misc. No. 13710 of 2017 which is pending consideration before this Court. Learned counsel further submits that the respondent no. 6 is claiming his right, title and possession over the disputed land and, therefore, the controversy involved in this case cannot be gone into in the present proceeding.

Learned counsel for the State is present. He has drawn my attention towards the Annexures to the counter affidavit particularly Annexure-D from which it appears that pursuant to an order passed by the Sub-Divisional Magistrate, the Sub-Inspector of Police, Sonapur P.S., had gone on the spot to open the lock, he found that two locks were there on the door of the shop. Out of two, one lock was opened but because there was no key available of the second lock it could not be opened. He,



therefore, reported the matter to the Sub-Divisional Magistrate and sought deputation of a Magistrate for this purpose. In fact, there is another document in form of Annexure 'E' to the counter affidavit filed on behalf of respondent no. 2 which shows that on 23.09.2018 the Sub-Inspector of Police had again gone there on the spot along with the deputed Magistrate but none of the parties were present on the spot and the neighboring shop owners had been taking diversified stand on behalf of both the parties causing a tension on the spot. The Sub-Inspector of Police, therefore, pasted a proclamation/Istehar on the shop and returned.

In the given facts and circumstances of this case, this Court does not find any error in the order dated 26.07.2018 as regards its direction and the liberty already granted to the petitioner. In the nature of dispute, this Court will not go into the merit and shall not discuss the rights of the parties for the present.

This modification application has no merit, it is dismissed.

R.R.Ojha/-

(Rajeev Ranjan Prasad, J)

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