

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.25528 of 2019**

Arising Out of PS. Case No.- Year-0 Thana- District- Gopalganj

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1. Dwarika Bhagat, S/o Late Shiv Bhagat, R/o village- Bairawa, P.S.- Bhorey, District- Gopalganj.
  2. Bhola Bhagat, S/o Late Shiv Bhagat, R/o village- Bairawa, P.S.- Bhorey, District- Gopalganj
  3. Shuganti Devi, W/o Late Janardan Bhagat, R/o Village- Bairawa, P.S.- Bhorey, District- Gopalganj

... .. Petitioners

Versus

1. The State of Bihar
2. Yogendra Bhagat, S/o Jung Bahadur Bhagat, R/o village- Bairawa, P.S.- Bhorey, District- Gopalganj

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Milind Kumar Mishra, Advocate

For the Opposite Party/s : Mr. Ramchandra Sahni, APP

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**CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA**  
**ORAL ORDER**

3      19-12-2019                      This application has been filed for quashing the order dated 20.06.2018 passed by the learned Additional District & Sessions Judge-V, Gopalganj in Criminal Revision No. 31 of 2015, whereby and whereunder he set aside the order dated 09.12.2014 passed by the Sub-Divisional Magistrate, Gopalganj in Case No. 761 of 2013 in a proceeding under Section 145 of Cr.P.C., in which, the possession of the petitioner has been declared over the land in question.

The fact in short is that the opposite party no.2 has filed an application for initiation of a proceeding under Section



144 of Cr.P.C. with respect to land of Khata No. 76, Khesra No. 252 area 01 Katha 04 Dhurs and Khata No. 76, Khesra No. 253 Area 08 Dhurs of Mauza- Berona, P. S. Bhorey, District Gopalganj on the ground that the land in question was in the share of Khatiyani Raiyat Raghu Bhagat and Raghu Bhagat has one son, namely, Jivdhan Bhagat and Jvdhan Bhagat had no child, therefore, Jivdhan Bhagat has registered the land of his share including the land in question to Ram Raj Bhagat and Raj Keshwar Bhagat through registered sale deed, who are the ancestor of the petitioner and mutation is running in the name of their ancestor, whereas the land in question was purchased by the opposite party no.2 from Tribhuwan Singh and Bhagwani Kaur and Jai Bhagat is the son of Hari Kishun Bhagat and Bhamani Kaur is daughter of Vineshwar Singh.

It further appears that a petition filed by the opposite party no.2 for initiation of a proceeding under Section 144 of Cr.P.C. before the learned Sub-Divisional Magistrate but the same was dropped on the ground that the dispute can be resolved only by a Civil Court of competent jurisdiction.

It further appears that thereafter, a petition has been filed by the opposite party no.2 for initiating a proceeding under Section 145 of Cr.P.C. which will appear from Annexure-5 with



respect to the same land, in which, show cause was issued to the petitioner and he has appeared and filed rejoinder and after evidence, the same has been decided in favour of the petitioner, vide order dated 09.12.2014 passed by the learned Sub-Divisional Magistrate, Gopalganj.

It further appears that against that order, the opposite party no.2 has filed Criminal Revision No. 31 of 2015 before the learned Sessions Judge, which ultimately was allowed, vide order dated 20.06.2018 passed by the learned District & Sessions Judge, Gopalganj in Criminal Revision No. 31 of 2015 on the ground of procedural lapse in deciding the proceedings under Section 145 of Cr.P.C. Against that order, petitioner has filed this application for quashing of the order of Revisional Court.

The ground for quashing of the order is that the land belongs to the ancestor of the petitioner and it was mutated in his name and running in his name also and proceedings under Section 145 of Cr.P.C. was also decided finding his possession, but the learned Revisional Court without considering the same, set aside the order of learned Sub-Divisional Magistrate.

Heard learned APP, also, who opposed this application.



From the perusal of the record, it appears that the dispute is with respect to possession over the land in question and that can only be decided by a Civil Court of competent jurisdiction by filing a title suit, especially, when the parties are claiming title of the land in question.

As such, I am not inclined to interfere with the impugned order of the Revisional Court.

Accordingly, this application stands dismissed with liberty to the petitioner to file a suit before the Civil Court of competent jurisdiction to get it finally adjudicated.

**(Vinod Kumar Sinha, J)**

Sunil Shukla/-

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