

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38649 of 2019

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

1. Gulab Devi, wife of Pashupati Nath Jha Resident of Village - Masdi, P.S.- Sultanganj, District - Bhagalpur
2. Roushan Kumar Jha Son of Pashupati Nath Jha Resident of Village - Masdi, P.S.- Sultanganj, District - Bhagalpur
3. Prashant Kumar Jha Son of Pashupati Nath Jha Resident of Village - Masdi, P.S.- Sultanganj, District - Bhagalpur
4. Shanti Devi Daughter of Pashupati Nath Jha Resident of Village - Masdi, P.S.- Sultanganj, District - Bhagalpur
5. Premlata Devi Daughter of Pashupati Nath Jha Resident of Village - Masdi, P.S.- Sultanganj, District - Bhagalpur
6. Minu Lata Devi Daughter of Pashupati Nath Jha Resident of Village - Masdi, P.S.- Sultanganj, District - Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ahok Kumar Jha Son of Sh. Kailash Pati Jha Resident of Village - Masdi, P.S.- Sultanganj, District - Bhagalpur.
3. Ganesh Datta Jha Son of Sh. Kailash Pati Jha Resident of Village - Masdi, P.S.- Sultanganj, District - Bhagalpur.
4. Hari Narayan Jha Son of Sh. Late Bhagirath Jha Resident of Village - Masdi, P.S.- Sultanganj, District - Bhagalpur.
5. Sri Narayan Jha Son of Sh. Late Bhagirath Jha Resident of Village - Masdi, P.S.- Sultanganj, District - Bhagalpur.
6. Manhu Narayan Jha @ Mannu Narayan Jha Son of Sh. Late Bhagirath Jha Resident of Village - Masdi, P.S.- Sultanganj, District - Bhagalpur.
7. Amarnaih Jha @ Amarnath Jha Son of Late Dasrath Jha Resident of Village - Masdi, P.S.- Sultanganj, District - Bhagalpur.
8. Bidyanand Jha Son of Late Nakul Jha Resident of Village - Masdi, P.S.- Sultanganj, District - Bhagalpur
9. Binodanand Jha Son of Late Nakul Jha Resident of Village - Masdi, P.S.- Sultanganj, District - Bhagalpur
10. Avinash Jha Son of Late Dayanath Jha Resident of Village - Masdi, P.S.- Sultanganj, District - Bhagalpur
11. Leela Nand Jha Son of Late Mukund Jha Resident of Village - Masdi, P.S.- Sultanganj, District - Bhagalpur
12. Sachidanand Jha Son of Late Mukund Jha Resident of Village - Masdi, P.S.- Sultanganj, District - Bhagalpur
13. Pawan Jha Son of Late Mukund Jha Resident of Village - Masdi, P.S.- Sultanganj, District - Bhagalpur



14. Bibekanand Jha Son of Late Mahindra Jha Resident of Village - Masdi, P.S.-
Sultanganj, District - Bhagalpur

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sharda Nand Mishra, Advocate
For the Opposite Party/s : Mr.Ram Priya Sharan Singh, APP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 04-07-2019 Heard Mr. Sharda Nand Mishra, learned
advocate for the petitioners and Mr. Ram Priya Sharan
Singh, learned APP for the State.

The petitioners have challenged the order dated
12.03.2019 passed by the learned Additional Sessions
Judge, IV, Bhagalpur in Cr. Revision No. 437 of 2008
whereby the order passed by the Magistrate in a
proceeding under Section 145 Cr.P.C has been set aside
on the ground of non-compliance of the provisions
contained in Section 145(7) Cr.P.C and it has further
been directed that in case the learned Executive
Magistrate considers that it is still necessary to enquire
about the possession of the parties, he may begin the
proceeding. An option has been given to the parties also
to invoke the provisions of Section 145 Cr.P.C with



respect to the land in question.

From the order impugned, it appears that a proceeding under Section 145 Cr.P.C was initiated with respect to a dispute over a mango orchard. During the continuance of the proceedings, three persons viz. Kartik Jha, Yogender Nath Jha and Ramender Nath Jha died. Three other persons who had intervened in the proceeding after taking permission of the Court had also died before the conclusion of the proceedings. The learned Executive Magistrate, vide his order, which was impugned in the revision petition, declared the possession of the land in in question in favour of the opposite parties.

The order of the Executive Magistrate has been set aside by the learned Revisional Court on the ground that without observance/compliance of the provisions contained in Section 145(7) Cr.P.C, no final order under Section 145 Cr.P.C could have been passed.

Any order passed without compliance of Section



145(7) would result in persons interested or in possession of the property being taken by surprise.

This Court finds no fault with the revisional order which has been impugned in the present petition.

However, it is open for the parties to invoke the provision of Section 145 Cr.P.C afresh, if there is any dispute with respect to the possession.

With the aforesaid observation/direction, the petition stands disposed of.

(Ashutosh Kumar, J)

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