

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22107 of 2015

Arising Out of PS. Case No.- Year-1111 Thana- District-

Seema Devi wife of Sanjay Kumar Singh. Resident of Mohalla- New Agarwa,
Ward No. 32, P.S.- Motihari, District- East Champaran.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Shivshankar Yadav @ Shivshankar Rai @ Shivshankar Singh, S/o Nawab Rai. R/o Mohalla- New Agarwa, Ward no. 32, P.S.- Motihari, District- East Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mritunjay Prasad Singh, Advocate
For the Opposite Party/s : Mr.T.N.Thakur, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 08-08-2019

Heard learned counsel for the parties.

2. The background of this case, under Section 482 of the Code of Criminal Procedure, is that a proceeding under Section 144 of the Code of Criminal Procedure was initiated in between Seema Devi-first party and Shivshankar Yadav @ Shivshankar Rai @ Shivshankar Singh-second party vide Case No.2244 (M) of 2012 before the court of learned Sub-Divisional Magistrate, Motihari Sadar. The proceeding was for apprehension of breach of peace due to land dispute in respect of plot No.86.

3. By order dated 30.11.2012, the proceeding under Section 144 of the Code of Criminal Procedure was initiated. By order dated 05.02.2013 the rule was made absolute against the



first party and was vacated against the second party considering the earlier identical order in favour of second party in Case No.393 of 2013 and order of the competent civil court in Title Suit No.257 of 1987 and Title Appeal No.40 of 1992.

4. The petitioner, who was first party before the court below challenged the said order dated 05.02.2013 before the learned Sessions Judge, Motihari in Criminal Revision No.86 of 2013. The revision application was dismissed on 14.11.2014. However, the revisional court observed that the impugned order was passed after expiry of 60 days of initial order of initiation of the proceeding under Section 144 of the Code of Criminal Procedure. Hence, the same was itself an order passed in a dead proceeding. The order of the revisional court as well as the court which had passed the order dated 05.02.2013 in the proceeding under Section 144 of the Code of Criminal Procedure are under challenge in this application.

5. Since the impugned order of the learned Sub-Divisional Magistrate passed under Section 144 of the Code of Criminal Procedure has already lost its force, the same has got no value in the eyes of law. Therefore, no harm has been caused to the petitioner or to the claim of the petitioner in pursuance of the order under challenge. Therefore, this



application is disposed of as it does not require any interference in exercise of jurisdiction under Section 482 of the Code of Criminal Procedure.

(Birendra Kumar, J)

abhishek/-

AFR/NAFR	NAFR
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