

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1199 of 2017

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

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1. Bijoy Kumar Singh, S/O Late Indradeo Roy, Plot no. 49, Nirala Nagar Colony, P.O. - Dighaghat-800011, P.S.- Digha, Patna
 2. Sanjay Kumar Singh, s/o Late Indradeo Roy, Plot no. 49, Nirala Nagar Colony, P.O. - Dighaghat, P.S.- Digha, District - Patna Pincode- 80011
 3. Asha Singh D/o Late Indradeo Roy, W/o Manoj Singh, Opposite flat no. 50, Nirala Nagar Colony, P.O. - Dighaghat, P.S.- Digha, District - Patna Pincode- 80011
 4. Renu Singh D/o Late Indradeo Roy, W/o Rajkishore Singh, House no. 108, C.D.A colony, P.o Shastinagar P.S Shastrinagar, Patna-800023
 5. Smt Hridya Devi, W/o Late Indradeo Roy, 49, Nirala Nagar, P.O and P.S - Digha Ghat, Patna- 800011

... .. Petitioner/s

Versus

1. State Of Bihar
2. Satyanarayan Singh ,S/o Jibnandan Singh, R/o Ekauna Kothi, Keshri Nagar, P.S.- Shastringagar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr.Arvind Kumar, Advocate
For the State	:	Mr. Rajendra Prasad Nat, APP

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

9 13-02-2020 Heard learned counsel for the petitioners and the
learned counsel appearing on behalf of the State.

The petitioners seek to challenge the order dated 04.09.2017 passed by the Sub-Divisional Magistrate, Patna Sadar in Case No.1186(M)/2017 under Section 144 of the Cr.P.C., whereby and whereunder the learned Sub-Divisional Magistrate, Patna Sadar has converted a proceeding under Section 144 Cr.P.C. into a proceeding under Section 145



Cr.P.C. and directed the parties to maintain *status quo* of the land in dispute.

Learned counsel for the petitioners submits that the original petitioner-Indradeo Roy is a Member of Nirala Grih Nirman Samiti Ltd, Nirala Nagar, a registered Co-operative Society having its Registration No.Pat-41/77. The said Society was engaged in sale/purchase of the lands from the farmers and after making sub-plots had sold the same to its members for construction of their houses thereon. The original petitioner is the Member of the said Society. The Secretary of the Society (O.P. No.2) transferred 4260 Sq.ft. land through registered sale deed dated 29.07.2002, which land after purchase also was mutated in his name in the revenue records. Learned counsel for the petitioners submits that the petitioners have been in possession of the same and have been paying revenue on the said land. It is further submitted that the dispute arose when the petitioners started construction over a part of this purchased land and on account of the said dispute, Digha Police Station was informed and on the basis of the false representation made before Digha Police Station by the O.P. No.2, Station Diary vide Non-FIR No.117/17 was made with a request to initiate



proceeding under Section 144 Cr.P.C. The said report was forwarded to the Sub-Divisional Magistrate, Patna and a proceeding under Section 144 of the Cr.P.C. was initiated, which has now been subsequently converted into a proceeding under Section 145 Cr.P.C.

Learned counsel for the petitioners submits that the said proceeding would be an abuse of the process of the Court as the land in question has been duly purchased by the original petitioners and has also been mutated in his name and therefore, any disturbance at the hands of the Secretary is wholly uncalled for and the proceeding under Section 145 Cr.P.C. would occasion miscarriage of justice.

Notices were issued to O.P. No.2 and on his appearance he has also filed his counter affidavit. He submitted that the petitioners are making unwanted disturbances and has started constructions over the land which belong to the Society and as a Secretary of the Society, it becomes his bounden duty to get any such constructions removed and for the said reason, he has filed the proceeding under Section 144 Cr.P.C. which has now been converted into a proceeding under Section 145 Cr.P.C, which is wholly legal and valid and it concerns the disputed



questions of fact. It would be well in the interest of justice that the entire matter be set at rest after due enquiry at the said proceeding and not otherwise. He thus submits that the interference in the aforementioned order would only occasion miscarriage of justice and delay the proceeding further.

Be that as it may and after considering all facts and circumstances and upon perusal of the record, this Court finds that there are disputed questions of facts involved. The Sub-Divisional Magistrate can well entertain the application filed by the petitioners for an early and expeditious disposal of the proceeding under Section 145 Cr.P.C.

It is thus directed that the petitioners as well as the Opposite Party No.2 will approach the Sub-Divisional Magistrate, Patna with a copy of this order who shall take immediate steps to make appropriate inquiries and proceed in accordance with law, so that the same culminates positively within a period of eight weeks from the date of receipt/production of a copy of this order.

It is made clear that neither of the parties should be given any opportunity to take time or use dilatory methods for delaying the order and the proceeding should be



concluded positively by the said date, as directed.

With the aforementioned observations and directions, the present revision application stands disposed of.

(Anjana Mishra, J)

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