

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10802 of 2017

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

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Bibi Yasmin Khatoon @ Yasmin Khatoon, wife of Mohd. Islam, resident of
Village- Maula Nagar Chamruchak, P.S.- Suryagarha, District- Lakhisarai.

... .. Petitioner/s

Versus

1. State of Bihar
2. Shailendra Kumar Shail, Son of Ganesh Pandit, resident of Village-
Suryagarha, P.S.- Suryagarha, District- Lakhisarai.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sachin Kumar

For the Opposite Party/s : Mr. Kumar Ranjit Ranjan

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 18-01-2021 Heard Mr. Ajay Kumar Chakravarty, learned

counsel for the petitioner and Mr. Ram Priya Sharan

Singh, learned APP for the State.

This is an application against order dated

11.06.2015 passed by the learned Sessions Judge,

Lakhisarai in Criminal Revision No. 15 of 2015, whereby

the order passed by the learned Magistrate under

Section 145 Cr.P.C. on 17.04.2015 in favour of the

petitioner has been set aside on the sole ground that the

dispute did not pertain to the land over which the

possession of the petitioner had been declared by the



learned Magistrate.

The learned counsel for the petitioner has submitted that the order is unsustainable in the eyes of law in as much as if the revisional Court found that the order with respect to declaration of possession over a particular area was not part of the dispute, then the matter ought to have been remanded to the learned Magistrate for taking a call with respect to possession over the property which was in dispute.

Not having done so, the matter was unnecessarily left hanging fire.

The occasion for the petitioner to challenge the aforesaid order before this Court arose when emboldened by that order the Opposite Party No. 2 has put up a lock over the premises standing on the land in dispute. This has resulted in excessive difficulty for the petitioner.

After having heard the learned counsel for the parties, this Court finds that if the learned Magistrate



had given a declaration of possession with respect to a plot of land which was not under dispute, the order could not have been sustained. Precisely for this reason, no interference is required with the revisional order which has been impugned in the present petition.

If at all, there is any fresh cause of action over a plot of land over which the petitioner claims to be in possession, nothing would prevent the petitioner from approaching the concerned authority for the needful afresh.

In case such a petition is filed before the learned Magistrate, necessary enquiry shall be made and order shall be passed.

The petition stands disposed off accordingly.

(Ashutosh Kumar, J)

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