

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53819 of 2021

Arising Out of PS. Case No.- Year-0 Thana- District- Kaimur (Bhabua)

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1. Uma Paswan Son of Late Ramji Paswan Resident of Village - and P.O.- Mahuari, P.S.- Sonbhan, distt.- Kaimur at Bhabua.
 2. Gauri Paswan Son of Late Ramji Paswan Resident of Village - and P.O.- Mahuari, P.S.- Sonbhan, distt.- Kaimur at Bhabua.

... .. Petitioners

Versus

1. The State of Bihar
2. Sunil Kumar Shrivastav @ Pramod Kumar Shrivastav Son of Prem Ranjan Prasad Shrivastav Resident of Village - and P.O.- Mahuari, P.S.- Sonbhan, distt.- Kaimur at Bhabua.

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr.Jitendra Prasad Singh, Advocate
For the Opposite Party/s : Mr.Surendra Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 27-04-2022 Heard counsel for the parties.

2. The two petitioners have challenged the order and judgment dated 22.2.2021 passed by the Additional Sessions Judge-IX, Kaimur at Bhabhua in Cr. Revision No. 79 of 2018 by which the revision preferred by them against the order dated 19.2.2018 passed by the learned Executive Magistrate, Bhabhua in Case No. 87/46 of 1998 was rejected.

3. Proceeding under Section 144 of the Code of Criminal Procedure was initiated in connection with the disputed plots to which both the petitioners and the opposite party no.2 lay their claim. It was converted under section 145 of the Cr.P.C. and the case was registered as 87/46 of 1999. Both the parties submitted their respective written statements



claiming their possession. The learned Executive Magistrate after hearing both the parties by a reasoned order dated 19.2.2018 decided the possession of the land/plot in favour of the opposite party no.2.

4. Aggrieved by the said order dated 19.2.2018, the petitioners herein preferred Cr. Revision no. 79 of 2018 before the learned Sessions Judge, Kaimur at Bhabhua which was taken up by the court of learned Additional Sessions Judge-IX, Kaimur at Bhabhua. The learned court thereafter heard both the parties and vide a reasoned order dated 22.2.2021 rejected the aforesaid criminal revision holding that: *“learned Executive Magistrate has passed the order in accordance with the provision contained under section 141(i)(iv) of the Cr.P.C. which is as per law and does not need any interference.”*

5. The learned court below also held that the learned Executive Magistrate has to find only whether any or which of the parties was at the date of the order made by him under possession the plot. He has decided the same in favour of the opposite party no.2. The learned Additional Sessions Judge as such dismissed the criminal revision of the petitioners herein which prompted them to invoke Section 482 of the Code of Criminal Procedure.



6. This Court has gone through the order dated 19.2.2018 passed by the learned Executive Magistrate, Bhabhua as also the order dated 22.2.2021 passed by the learned Sessions Judge-IX, Kaimur at Bhabhua and finds no infirmity in its inasmuch as the learned court below has rightly observed that the learned Executive Magistrate has only to find out any or which of the parties on the date of the order made by him was in possession of said plot on the material available on record was decided in favour of the opposite party no.2.

7. Having found no infirmity in the said order, the application preferred under section 482 of the Code of Criminal Procedure is hereby rejected.

8. It is, however, made clear that any observation made by the learned Executive Magistrate or the learned Additional Sessions Judge-IX, Kaimur at Bhabhua which touch upon the title of the land in dispute will have no meaning as and when the same is challenged before an appropriate Court of Law.

9. With the aforesaid observation, this application is dismissed.

(Rajiv Roy, J)

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