

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.348 of 2019

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

Naresh Yadav @ Ram Naresh Yadav Son of Late Murat Singh Resident of Village-Pothahi, P.S.- Punpun Petitioner

Versus

1. The State Of Bihar Through Principal Secretary Department Of Home Govt. Of Bihar, Patna
2. Anand Kumar Son of Late Yogendra Singh Resident of Village-Pothahi, P.S.- Punpun
3. Pawan Kumar Late Yogendra Singh Resident of Village-Pothahi, P.S.- Punpun

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Banwari Sharma, Advocate
Mr. Shiv Kumar, Advocate
For the Respondent/s : Mr.M. Nasrul Huda Khan, SC 1

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 20-02-2023 Heard learned counsel for the petitioner and the State.

This criminal writ petition has been filed for quashing order dated 3.11.2018, passed by the Sessions Judge, Patna in Cr. Revision No.2 of 2018 as well as order dated 25.11.2017, passed by the Sub Divisional Magistrate, Masaurhi (Patna) in Case No. 509 of 2017 by which he has decided the title in favour of respondent nos. 2 and 3.

It is submitted on behalf of the petitioner that the learned Sub Divisional Magistrate, Masaurhi while hearing a petition filed under section 144 of the Cr.P.C., vide order dated 25.11.2017 decided the title of the land in favour of respondent no. 2 and 3 in place of deciding possession of the respective party. More so, when the said order was challenged in revision by the petitioner, the revisional court vide order dated 3.11.2018



while dismissing the revision application observed as follows:-

“It is, therefore, ordered that this Criminal Revision is dismissed as infructuous, and the impugned order dated 25.11.2017, as passed by the learned Court below is confirmed, with liberty to the revisionist to institute civil suit before the competent Civil Court, and to get his right, title and possession etc. be decided, in respect of the land in dispute.”

Learned counsel for the petitioner submits that the learned Sessions Judge has committed error while passing the impugned order confirming order of the court below dated 25.11.2017. He submits that once revision application has been found to be infructuous, there was no occasion for the learned revisional court to pass order on the merits of the case and thereby confirming order of the SDM, Masaurhi.

Learned counsel appearing for respondent nos.2 & 3 opposes the prayer made by learned counsel for the petitioners and submits that the order passed by both courts are well reasoned and in accordance with law.

Having heard learned counsel appearing for the parties and on perusal of records, I do find substance in the submission of the petitioner. Once revision application was found to be infructuous, revisional court should not have gone into the merits of the case and confirmed order of the SDM,



Masaurhi.

In that view of the matter, a part of the order dated 3.11.2018 to the effect that “*the impugned order dated 25.11.2017, as passed by the learned Court below is confirmed*”, is quashed.

Instant revision application is partly allowed.

(Prabhat Kumar Singh, J)

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