

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7516 of 2015

1. Sri Shailendra Prasad
 2. Sri Yogendra Prasad
 3. Sri Sadhu Prasad
- Petitioner No. 1 to 3 are S/o Sri Ram Dahin Prasad Yadav, Resident of Village- Nadaul (Jamalpur Ka Bigha), P.S.- Masaurhi, District- Patna.
- Petitioner/s

Versus

Md. Kalimuddin S/o Late Sharfuddin, Resident of Village Nadaul, P.S.- Masaurhi, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Om Prakash Upadhyay, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 31-07-2023 Heard.

2. The present writ petition has been filed to amalgamate and hear the case analogous bearing Misc. Case No. 454M/79/Misc.-467/92, Tr. No. 166 of 92 under Section 145 of Cr.P.C. and Title Suit No. 145 of 1996.

3. Learned counsel for the petitioners submits that since both the cases arising out of same land in dispute between the same set of parties and with a view to stop the multiplicity of the litigation between the said parties over the same land in question in which just and proper to amalgamate and hear both the cases analogously to avoid any further multiplicity of litigation.

4. Learned counsel for the State submits that the prayer made by the petitioners is against the spirit of law. He further submits that the proceeding under Section 145 of Cr.P.C.

has to run before the Executive Magistrate.

5. Here in the present case, it is running before the S.D.M, Patna City and Title Suit is the original jurisdiction pending before the Court of Sub-Judge-VIII, Patna.

6. Upon going through the prayer and upon hearing the argument, this Court realized the fact that there are two cases pending, one is pending under Section 145 of Cr.P.C. in which domain of possession has to be decided within 60 days from the date of cause of action, whereas a title suit is the original jurisdiction of a Civil Court which has to run according to the territorial, peculiarly and jurisdiction relating to subject matter and absolutely a civil proceeding. The domain of title suit has to decide right, title, interest and possession of the parties. There is no provision known in law under which the proceeding under Cr.P.C. and proceeding under C.P.C. can be clubbed together. As such, this Court finds that the relief prayed by the petitioners is unknown to law and in this background, this Court is not inclined to grant the relief as prayed by the petitioners. Therefore, the present writ petition is hereby dismissed.

(Dr. Anshuman, J.)

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