

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.47 of 2017

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

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1. Uma Shankar Yadav S/o Ram Naresh Yadav
 2. Rabindra Kumar S/o Uma Shankar Yadav
 3. Virendra Kumar S/o Uma Shankar Yadav
 4. Surendra Kumar S/o Uma Shankar Yadav
 5. Upendra Kumar S/o Uma Shankar Yadav All 2 to 5 are minor Sons of Uma Shankar Yadav who is guardian and father, All 1 to 5 are residents of Village Bhutaha, P.S. Pupri, District – Sitamarhi ... Petitioners

Versus

1. The State Of Bihar
2. Ram Swarath Rai S/o Ram Chandra Rai
3. Dinesh Rai S/o Ram Chandra Rai Both 2 and 3 are residents of Village Rupauli tola Bhaluaha, P.S. Dumra, District Sitamarhi.
4. Raj Karan Rai S/o Babulal Rai Resident of Village Rupauli tola Dhanushi, P.S. Dimra Sitamarhi ... Respondents

Appearance :

For the Petitioners : Mr.Uday Kumar, Adv.
For the Respondents : Mr.Matloob Rab, APP 34

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

6 16-03-2023 Counsel for the petitioners and the counsel for the State are present.

The present revision application has been filed against the order, dated 19.09.2014, passed by the Subdivisional Magistrate, Sitamarhi, in Case No. 1400 of 2012 whereby and whereunder an ex parte final order has been passed in a proceeding under Section 145 of the Criminal Procedure Code declaring opposite parties in possession over the land in question when title suit with respect to the said land is pending before the Sub Judge, I, Sitamarhi.



Counsel for the petitioners submits that the order, dated 19.09.2014 is basically a cryptic order and passed behind the back of the petitioners (second parties). Counsel for the petitioners submits that from the order, dated 23.12.2013, of the Subdivisional Magistrate, Sitamarhi, it transpires that this case has been fixed for ex parte order against the second parties and subsequently final order has been passed on 19.09.2014 and, therefore, this proceeding is bad in law.

Counsel for the State submits that from Annexure 1, which is the order passed in Criminal Revision No. 44 of 2013, the initiation of proceeding under Section 145 of the Criminal Procedure Code by virtue of Case No. 1400 of 2012 has been challenged by the petitioners before the Sessions Court in which vide order, dated 04.03.2016, their criminal revision was dismissed.

In the view of the matter, when the initiation of proceeding under Section 145 of the Criminal Procedure Code of Case No. 1400 of 2012 was challenged by the petitioners meaning thereby they have knowledge that proceeding under Section 145 of the Criminal Procedure Code has been initiated and during the pendency of their Criminal Revision No. 44 of 2013 they have not opted to appear and pursue without stay, as



such, I am not inclined to interfere in the said order and, hence,
this Criminal Revision is hereby dismissed.

(Dr. Anshuman, J)

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