

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56188 of 2021

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

MAHA DEVI, Wife of Late Mahendra Singh, Resident of Village-
Parshurampur, P.O.- Parshurampur, P.S.- Amnour, District- Saran of Chapra,
Pin Code- 841401.

... .. Petitioner

Versus

1. The State of Bihar.
2. Aman Kumar Singh, Son of Jitendra Singh.
3. Vipin Singh, Son of Late Mahadeo Singh
4. Suresh Singh, Son of Late Janak Singh.
5. Shila Nath Singh, Son of Late Janak Singh.
6. Ramesh Singh, Son of Late Janak Singh.
7. Ranjeet Kumar Singh, Son of Late Janak Singh.
8. Jalandhar Singh Son of Late Ratan Singh.
9. Madan Singh Son of Late Ratan Singh.
10. Satyendra Singh Son of Late Mosafir Singh.

All resident of Village - Parsherampur, P.O.- Parshurampur,
P.S.- Amnour, District- Saran at Chapra, Pin Code- 84140.

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Jeetendra Narayan, Advocate
For the State	:	Mr. Navin Kumar Pandey, APP
For Opp. Parties	:	Mr. Sushil Kumar Singh, Advocate Mr. Bindeswari Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 11-05-2023 Heard learned counsel appearing for the parties.

The petitioner seeks quashing of the order dated
22.03.2021 passed by learned Additional Sessions Judge VII,
Saran at Chapra, in Criminal Revision No. 280 of 2021,
whereby and whereunder the learned Additional Sessions Judge
has dismissed the revision application filed by the husband of



the petitioner; and also for quashing the order dated 24.10.2019 passed by the Executive Magistrate, Marhaura, Saran, in Tr. No. 08 of 2019, by which the learned Magistrate has not dropped the proceeding initiated under Section 145 of the Cr.P.C in spite of the fact that with regard to dispute of the same land, Title Suit No. 34 of 2019 is sub-judice in the Court of learned Sub-Judge, 1st, Saran at Chapra.

Learned counsel for the petitioner submits that for the same dispute, earlier the uncle of the opposite party no.2 had approached the Court of Sub-Divisional Magistrate and the Court had ordered that the party can take recourse to Civil Suit proceeding. Accordingly, the petitioner side had filed Title Suit No.34 of 2019, which is pending in the Court of Sub Judge-I, Saran at Chapra. In that proceeding, the uncle of the opposite party no.2 is already a party. Now, the opposite party no.2, for the same land, has filed an application under Section 144 of the Cr.P.C. though with regard to the same land, the aforesaid Title Suit is pending, which in my opinion, is clearly an abuse of the process of the Court. If the opposite party no.2 is aggrieved by any action of the petitioner, he should have filed an application for injunction in the aforesaid title suit.

The submission of the opposite party no.2 that he is



not a party in the title suit can not be entertained as one family member is already a party in the title suit and he cannot subsequently invoke to initiate another proceeding under Section 144 of the Cr.P.C. when the earlier proceeding initiated at the instance of the uncle of the opposite party no.2 has been disposed of.

In view of the aforesaid, this application is allowed. Accordingly, the order dated 22.03.2021 passed by learned Additional Sessions Judge VII, Saran at Chapra, in Criminal Revision No. 280 of 2021 and order dated 24.10.2019 passed by the Executive Magistrate, Marhaura, Saran in Tr. No. 08 of 2019 are hereby quashed.

The opposite party no.2 is given liberty to file an application under Order I Rule-10 of the C.P.C. for adding himself in the aforesaid title suit.

(Sandeep Kumar, J)

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