

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25560 of 2015

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

Tabarak Ansari @ Tabarak Miyan S/o Late Dowa Miyan, resident of Village-
Sonasati, Tola- Mohammadpur, P.s.- Shikarpur, District- West Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. Bibi Saibuna Khatoon, W/O Arif Miyan, resident of Village- Sonasati, Tola-
Mohammadpur, P.s.- Shikarpur, District- West Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Aditya Nath Jha, Advocate
For the Opposite Party/s : Mr. Rajiv Nayan, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

5 27-03-2023 Although the notices were issued upon the opposite party no.2 on 21.08.2015 and a Vakalatnama duly signed by him was presented before the Court, no reply was filed and the matter was adjourned twice on 20-02-2023 and 13-03-2023 but still on call, it was informed by the learned counsel for the other side that he do not have any instruction and as such he is unable to file counter affidavit.

Heard learned counsel for the parties.

The present petition has been preferred for quashing of the order dated 02.01.2014 passed by learned Sub-divisional Magistrate, Narkatiyaganj in Case No.1478 of 2012 whereby and whereunder took cognizance under Sections 145 Cr.P.C.



It has been stated that with respect to the land in question, on 27.11.2012 a proceedings under Sections 144 Cr.P.C. was initiated and notices were issued on 01.12.2012. The petitioner appeared and file its reply on 22-01-2013 and on the same date, the proceeding was converted to Section 145 of the Cr.P.C. Thereafter, it has been informed that the matter remain pending.

Learned counsel for petitioner submits that on 28.09.2013, a petition under Section 146(1) of the Cr.P.C. was preferred by the other side and after submission of the report on 02.01.2014, the learned Sub-divisional Magistrate, Narkatiyaganj passed the order appointing the Circle Officer, Narkatiyaganj as receiver with respect to the land in question. The same is under challenge in this petition.

Per contra, learned counsel for the informant submits that in 2020 itself Title Suit No.251 of 2012 was preferred by the opposite party herein in which the petitioner has already appeared and if he has any grievance, he can very well raise the same before the learned court where the Title suit is pending.

This Court find force in the submission put forward by the learned counsel for the informant.

Learned counsel for the petitioner at this stage



submits that he may be given liberty to raise all the points before the Title court so that an appropriate order is passed after hearing all the facts and taking into account the documents that the other side may produce before the said court.

The matter accordingly stands disposed of with the aforesaid liberty.

(Rajiv Roy, J)

Prakash Narayan /-

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