

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64242 of 2022

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

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1. TRIPURARI PRASAD SINGH S/O LATE RAM NARAYAN PRASAD SINGH Resident of village- Saidpur, P.S.- Gopalpur, District- Bhagalpur.
 2. RAJNI KANT SINGH S/O LATE MOHAN PRASAD SINGH Resident of village- Saidpur, P.S.- Gopalpur, District- Bhagalpur.
 3. PRAMOD KUMAR SINGH S/O LATE SHASHI BHUSAN PRASAD SINGH Resident of village- Saidpur, P.S.- Gopalpur, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. ANJANI KUMAR SINGH S/O LATE SHARUGHAN PRASAD SINGH Resident of village- Saidpur, P.S.- Gopalpur, District- Bhagalpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Brajesh Kumar Singh
For the Opposite Party/s : Mr.Uday Chand Prasad

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

7 25-08-2023 Heard Mr. Brajesh Kumar Singh for the petitioners
and Mr. Aaruni Singh for the O.P. No. 02.

2. This application has been preferred for quashing the order dated 04.03.2020 passed by learned Executive Magistrate, Naughachia in Misc. Case No. 751 of 2019 by which the Magistrate has attached the land in the proceeding under Section 146 of the Cr.P.C. and the Circle Officer, Gopalpur has been appointed as receiver of the said land.

3. It has been submitted by the learned counsel for the petitioner that a Title (Partition) Suit No. 20 of 2006 is



pending in the Court of Sub-Judge, Naughachia and the land in dispute before the Sub-divisional Magistrate is the same as in the Title Suit.

4. It has further been contended by the learned counsel for the petitioner that once a title suit is pending between the same parties for the same land, the SDM should not interfered in the matter and attached the land and passed an order for appointment of a receiver.

5. Learned counsel for the petitioner further submits that if the petitioner wanted a receiver to be appointed for the suit properties then he should have approached the Civil Court and got necessary orders from there only.

6. Learned counsel for the petitioner further submits that one injunction application has also filed by the O.P. No. 02 who is a defendant in the Title Suit which has been dismissed by the Sub-Judge on 17.07.2023.

7. Once an injunction application has been dismissed, it appears that Sub-Judge has found no prima facie case in favour of the O.P. No. 02 and therefore once it has found that the O.P. No. 02 has no prima facie case, at his instance, the land in question cannot be attached and no receiver can be appointed.

8. In view of the above, this application is allowed.



9. Accordingly, the order dated 04.03.2020 passed by learned Executive Magistrate, Naughachia in Misc. Case No. 751 of 2019 is hereby quashed in the interest of justice.

10. The parties are given liberty to agitate all their disputes before the Sub-Judge, in the pending title suit and the Sub-Judge Naugachia is directed to conclude the title suit within a year from a receipt / communication of a copy of this order.

11. The pendency of any application in the High Court by the O.P. No. 02 will not delay the proceeding of the title suit.

(Sandeep Kumar, J)

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