

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.709 of 2022

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

=====

Jalbar Miya @ Jabbar Miya @ Javar Alam Son Of Sagir Miya Resident Of
Village- Sundar, P.S- Mashrakh, Dist- Saran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Md. Rozaddin Son Of Md Israail Resident Of Village- Sundar, P.S-
Mashrakh, Dist- Saran
3. Manjoor Alam Son Of Md. Yusuf Resident Of Village- Sundar, P.S-
Mashrakh, Dist- Saran
4. Md. Nizamuddin Son Of Mansi Miya Resident Of Village- Sundar, P.S-
Mashrakh, Dist- Saran

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Pandey, Advocate
For the Opposite Party/s : Mr. Vinod Shanker Modi, APP

=====

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 21-08-2023

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The present application has been filed for quashing
the order dated 23.01.2021 passed by the learned SDM
Marhowrah Saran in Trial No. 01 of 2021 and order dated
06.03.2021 passed by the learned Sessions Judge Saran at
Chapra in Cr. Rev. No. 17 of 2021.

3. The brief facts of the present case is that the learned
Court below on the basis of the report of the SHO of the
Marhowrah P.S., satisfied that there is apprehension of breach of
peace between the parties in respect of land in question being
Khata No. 170, Survey No. 1001 measuring an area 01-04-15



dhur situated in Mauja Sundar circle Masarakh, District- Saran.

4. The learned SDM on the basis of the report of the SHO initiated the proceeding under Section 144 of the Cr.P.C. and both the parties have been directed to file their respective show cause along with relevant document and further directed not to visit the land in question.

5. As per direction of the learned SDM, both the parties had appeared and filed their respective show cause. Learned SDM after hearing the parties and gone through the respective show cause has been pleased to convert the Section 144 of the Cr.P.C. proceeding into Section 145 of the Cr.P.C. proceeding vide order dated 23.01.2021.

6. The petitioner has challenged the order dated 23.01.2021 passed by the learned SDM filing Cr. Rev. No. 17 of 2021 before the Sessions Judge, Saran at Chapra and the learned District & Sessions Judge had also pleased to affirm the order of the learned SDM.

7. Learned counsel for the petitioner submits that the learned Court below without considering the show cause of the petitioner has converted the Section 144 of Cr.P.C. proceeding into Section 145 of Cr.P.C. proceeding. It appears from the report that there is hut of the petitioner on the land in question



and the hut in question is dwelling house of the petitioner therefore, proceeding converted into Section 144 Cr.P.C. to Section 145 Cr.P.C. is not proper/justified in accordance with law.

8. The learned counsel for the State on the other hand vehemently opposed the prayer of the petitioner and submits that the learned Court below has only converted the proceeding under Section 144 Cr.P.C. into proceeding Section 145 Cr.P.C. and has not passed any final order and also not decided the possession of the land in question in favor of any of the parties in respect to the aforesaid land in question.

9. Having considered the rival submission of both the parties and gone through the record of the case and the learned District and Sessions Judge, Saran at Chapra has rightly affirm the order of the learned SDM.

10. In view of the aforesaid, there is no merit in the present application and the same is dismissed.

(Rajesh Kumar Verma, J)

Vanisha/-

AFR/NAFR	NAFR
CAV DATE	08-12-2022
Uploading Date	21-08-2023
Transmission Date	21-08-2023

