

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.272 of 2019

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

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1. RAJESH KUMAR @ RAJESH SINGH AND ORS. Tanik Singh Village-Khuthadih, P.S-Barhiya, Distt.-Lakhisarai.
 2. Bipin Singh Late Kapil Deo Singh Village-Khuthadih, P.S-Barhiya, Distt.-Lakhisarai.
 3. Kanhaiya Kumar @ Kanhaiya Singh Vijay Singh @ Bipin Singh Village-Khuthadih, P.S-Barhiya, Distt.-Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ramshobha Singh, S/o Bhola Singh Village-Khuthadih, P.S-Barhiya, Distt.-Lakhisarai.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ravindra Kumar, Adv., Ms. Krishna Kumari, Adv.
For the State	:	Mr. Jai Narain Thakur, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

5 06-02-2024 Heard learned Advocate for the petitioners as well as learned APP for the State.

2. An order dated 26th October, 2018, passed in Miscellaneous Case No. 119M2 of 2016, under Section 145 of the Cr.P.C., the petitioners have filed the instant revision challenging an order of the learned Sub Divisional Magistrate, Lakhisarai.

3. It is submitted by the learned Advocate for the petitioners that the petitioners are the owner in possession of a piece of land at village Barhiya within Lakhisarai District. They



have been paying land tax in respect of the said land.

4. One Ramshobha Singh, in his personal capacity, has filed an application under Section 145 of the Cr.P.C. in the year 2016, alleging, inter alia, that the subject land is under the ownership and possession of Bihar Religious Trust Board and the present petitioners does not have any right, title and interest over the said land.

5. It is pointed out by the learned Advocate for the petitioners that previously the opposite party filed an application under Section 144 of the Cr.P.C. with an allegation to prevent public nuisance, apprehending danger in respect of the ownership of the said land. The said proceeding under Section 144 of the Cr.P.C. was disposed of holding, inter alia, that efficacious relief in respect of the ownership and possession of the land lies in the civil court. Therefore, the parties are required to take suitable steps to file suit in the competent civil court having jurisdiction. No suit filed by the opposite parties. Subsequently, the instant application under Section 145 of the Cr.P.C. has been filed.

6. Notice has been sent by the learned Sub Divisional Magistrate, which is under challenge in the instant revision.

7. This Court is of the view that any dispute



concerning ownership and possession of the land can only be decided by the civil court. A court of the learned Executive Magistrate can pass an, inter locutory, order for a limited period of time under Section 145 of the Cr.P.C. However, Section 145 of the Cr.P.C. does not stipulate establishment of the title of the parties over the disputed properties.

8. In view of what has been stated above and for the reasons that the instant proceeding is pending since 2016, this Court is of the view that the order dated 26th October, 2018 can not exist. Therefore, the impugned order is quashed and set aside.

9. However, both the parties are directed not to create any breach of piece over the said landed property without any order of the competent civil court over the subject land.

10. With this direction, the instant revision is allowed.

(Bibek Chaudhuri, J)

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