

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.172 of 2023

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

RAM DEV SAHANI Son of Late Dev Raj Sahani R/v and P.O.- Bahrauli,
P.S.- Mashrakh, District- Saran

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Department of Home,
Patna Bihar
2. DILIP OJHA Son of Surajdeo Ojha R/v- Bahrauli Kothi, P.O.- Bahrauli,
P.S.- Mashrakh, District- Saran

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Koshalendra Rai
For the Respondent/s	:	Mr.Prabhat Kumar Verma
		Ms. Divya Verma, AC to AAG 3

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

5 10-07-2025 Heard the parties.

2. This application has been filed for quashing the order dated 13.10.2022 passed by the Executive Magistrate, Marhaura in Trial No. 56 of 2022 attaching the disputed land under Section 146(1) of the Cr.P.C. and also for dropping the proceeding under Section 145 of the Cr.P.C. bearing Trial No. 56 of 2022.

3. It is not in dispute that for the same property, Title Suit No. 410 of 2022 is pending in the Court of Sub-Judge-1, Saran at Chhapra/concerned Court below.

4. Learned counsel for the petitioner has relied upon the Judgment of the Hon'ble Supreme Court in the case of



Mahar Jahan and Ors. Vs. State of Delhi and Ors. reported in (2004) 13 SCC 421 and has submitted that once a Civil Suit has been filed for declaration of title of the property which is also subject matter of the proceeding before the Magistrate initiated under Section 146(1) Cr.P.C. then the same should not be allowed to continue as the matter is to be finally decided by the District Court.

5. Learned counsel for the State and the learned counsel for the private respondents, in view of the judgment of the Hon'ble Supreme Court in the case of ***Mahar Jahan and Ors. Vs. State of Delhi and Ors. (Supra)***, do not oppose the prayer of the petitioner.

6. Accordingly, this application is allowed and the proceedings under Section 146(1) as well as the order dated 13.10.2022 passed by the Executive Magistrate, Marhaura in Trial No. 56 of 2022 attaching the disputed land under Section 146(1) of the Cr.P.C. are hereby quashed and the proceeding under Section 145 of the Cr.P.C. in Trial No. 56 of 2022 is also dropped.

7. The Sub-Judge-1, Saran at Chhapra/concerned Court below is directed to proceed with the Suit and decide the dispute between the parties at the earliest. He is also directed to



proceed *ex-parte* against the non-cooperating party. For any interim prayer/relief, either of the parties may move the concerned Court below.

8. Since the order of the Executive Magistrate, Marhaura has been quashed, the SHO will not act any further in pursuant to the order dated 13.10.2022 passed by the Executive Magistrate, Marhaura in Trial No. 56 of 2022.

9. With the aforesaid directions, this application is allowed.

(Sandeep Kumar, J)

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