

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18838 of 2017

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

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Shatrughan Hazari Son of Late Brij Narayan Hazari, resident of village -
Balha, Police Station - Bahera, District - Darbhanga

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. Ramadhar Jha, Son of Late Shambhu Jha, resident of village - Balha, Police
Station - Bahera, District - Darbhanga
3. Govind Hazari, Son of Late Mohan Hazari, resident of village - Balha,
Police Station - Bahera, District - Darbhanga

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate
	:	Ms. Babita Kumari, Advocate
For the State	:	Mr. Jharkhandi Uphadyay, APP
For the O.P. No.2	:	Mr. Dinesh Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 07-08-2025 Heard learned counsel for the petitioner, learned

counsel for the State and learned counsel for the opposite party

no.2.

2. The present application has been filed for quashing
the order dated 30.11.2016 passed by learned Subdivisional
Magistrate, Benipur, Darbhanga in M.R. Case No. 217 of 2015,
whereby in a proceeding under Section 147 Cr.P.C. the
petitioner has been directed to remove obstruction from the land
in question in 15 days. Further prayer has been made for
quashing the order dated 10.03.2017 passed by learned Sessions
Judge, Camp Court, Benipur, Darbhanga in Criminal Revision



No. 105 of 2016, whereby the learned Sessions Judge has affirmed the order dated 30.11.2016 passed by learned SDM, Benipur. Hence, prayer has been made for quashing of both the orders.

3. The petitioner has challenged the impugned order dated 30.11.2016 passed by Sub-Divisional Magistrate, Benipur, Darbhanga on the ground that the petitioner was not given any opportunity to lead evidence in the matter and the impugned order under Section 147 of Cr.P.C. has been passed without any evidence.

4. The learned counsel for the opposite party no.2 initially has opposed the application, but is ready for a consent order.

5. In these circumstances, this application is disposed of with consent of the learned counsel for the petitioner and the learned counsel for the opposite party no.2. The orders dated 30.11.2016 and 10.03.2017 passed by Sub-Divisional Magistrate, Benipur, Darbhanga, and District Sessions Judge, Camp Court, Benipur, Darbhanga, are set aside with direction to the Sub-Divisional Magistrate, Benipur, Darbhanga to hear the M.R. Case No. 217 of 2005 afresh after allowing the parties to give evidence. This entire exercise must be completed within



two months of communication of this order. The Sub-Divisional Magistrate will proceed *ex parte* against non-cooperating party.

6. The Interlocutory Application, if any, is disposed of.

(Sandeep Kumar, J)

anand/-

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