

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1497 of 2022

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

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1. BIBHUTI NATH PRASAD Son of Bikrama Prasad Resident of Village- Ata Nagar, P.S.- Isuapur, District- Saran
 2. VIJAY KUMAR SINGH Son of Umesh Prasad Singh Resident of Village- Ata Nagar, P.S.- Isuapur, District- Saran
 3. SUSHIL KUMAR SINGH Son of Umesh Prasad Singh Resident of Village- Ata Nagar, P.S.- Isuapur, District- Saran
 4. ANIL KUMAR @ ANIL KUMAR SINGH Son of Rameshwar Singh Resident of Village- Satasi, P.O. and P.S.- Isuapur, District- Saran
 5. SHASHI RANJAN SINGH @ SHASHI RANJAN Son of Rameshwar Singh Resident of Village- Satasi, P.O. and P.S.- Isuapur, District- Saran

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Saran Bihar
2. Ajay Kumar Srivastav Son of Late Lal Bahadur Prasad Resident of Village- Ata Nagar, P.O. and P.S.- Isuapur, District- Saran
3. Shubh Narayan Sah Son of Late Punni Sah Resident of Village- Ata Nagar, P.O. and P.S.- Isuapur, District- Saran
4. Bikrama Prasad Son of Devi Mahto Resident of Village- Ata Nagar, P.O. and P.S.- Isuapur, District- Saran

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Koshalendra Rai
		Mr. Nagendra Rai
For the Respondent/s	:	Mr.Sajid Salim Khan
For the Private Resp.	:	Dr. Alok Kumar

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 01-07-2025 Heard the parties.

2. This application has been filed for quashing the order dated 27.08.2022 passed by the Executive Magistrate, Marhaura in Trial No. 32 of 2022 attaching the disputed land under Section 146(1) of the Cr.P.C. and appointed the SHO,



Isuapur as receiver and also for dismissing the petition dated 3.8.2022 filed by the respondent no. 2 for attachment under 146(1).

3. It is not in dispute that for the same property, Title Suit No. 587 of 2023 is pending in the Court of Sub-Judge-1, Saran at Chhapra.

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



27.08.2022 passed by the Executive Magistrate, Marhaura in Trial No. 32 of 2022 attaching the disputed land under Section 146(1) of the Cr.P.C. are hereby quashed.

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. With the aforesaid directions, this application is allowed.

(Sandeep Kumar, J)

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