

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1477 of 2019

1. Shailesh Prasad and Ors Nand Kishore Prasad Resident of Village - Mora Khas, P.S. Bhagwanpur Hat, District Siwan.
2. Pappu Prasad Nand Kishore Prasad Resident of Village - Mora Khas, P.S. Bhagwanpur Hat, District Siwan.
3. Sumitra Devi Sittu Prasad Resident of Village - Mora Khas, P.S. Bhagwanpur Hat, District Siwan.

... .. Petitioners

Versus

1. State Of Bihar and Anr Bihar
2. Sushila Prasad Lallan Prasad Resident of Village - Mora Khas, P.S. Bhagwanpur Hat, District Siwan.

... .. Opposite Parties

Appearance :

For the Petitioners : Mr. Ashok Kumar, Adv.
For the Opposite Parties : Mr. Sri Jai Narain Thakur, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 27-07-2026 From the argument of learned counsel appearing on behalf of the petitioners, it appears that the parties are in possession of their share of land since last eight years and cultivating over their land.

2. This fact was not disputed by learned counsel appearing for the informant.

3. It is jointly submitted that now the parties are cultivating on their respective land since last eight years and as there is no breach of peace with regard to the subject of dispute, for the present.

3. It would be apposite to reproduce proviso of



Section 146(1) of CrPC:

“If the Magistrate at any time after making the order under Sub-Section (1) of section 145 considers the case to be one of emergency, or if he decides that none of the parties was then in such possession as is referred to in section 145, or if he is unable to satisfy himself as to which of them was then in such possession of the subject of dispute, he may attach the subject of dispute until a competent Court has determined the rights of the parties thereto with regard to the person entitled to the possession thereof;

Provided that such Magistrate may withdraw the attachment at any time if he is satisfied that there is no longer any likelihood of breach of the peace with regard to the subject of dispute.”

4. In view of aforesaid and by taking note of submissions, as there is no breach of the peace, the petitioners are at liberty to press petition in view of proviso of Section 146(1) of the CrPC for re-consideration of impugned order as passed *qua* attachment, before learned SDM, Mahrajganj itself.

5. In view of aforesaid, the present petition stands disposed of.

(Chandra Shekhar Jha, J.)

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