

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60571 of 2022

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Madhu Lal Yadav Son of Late Bachchu Lal Yadav R/o Village- Simra, P.S-
Phulparas, Distt- Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bindeshwar Yadav S/o Ram Dev Yadav R/o Village- Sangi, P.S- Phulparas,
Distt- Madhubani

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rudal Prasad, Adv.
For the Opposite Party/s : Mr. Ram Naresh Ray, APP

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CORAM: HONOURABLE MR. JUSTICE ANSUL
CAV JUDGMENT

Date : 21-07-2026

The dispute in the present petition pertains to land situated in Mauja Sijauliya, P.S. Phulparas, District Madhubani, appertaining to Khata No. 9 (Old), Khesra No. 4944 (Old)/6106 (New), and Khata No. 870 (New), Khesra No. 4966 (Old)/6529 (New), admeasuring approximately 7 Kattha 6 Dhur in total. The land was originally claimed by Opposite Party No. 2 on the basis of the revisional survey record standing in the name of his father, and he also holds an LPC in his name. The petitioner, on his part, staked his claim to the very same land on the basis of a sale deed executed in his favour. Opposite Party No. 2 filed a title suit in the year 2017 seeking adjudication of title and possession. He also simultaneously initiated a proceeding under Section 144 Cr.P.C.



before the Sub-Divisional Magistrate, Phulparas in the year 2018, which was converted into a proceeding under Section 145 Cr.P.C., ultimately culminating in the appointment of a receiver and attachment of the land under Section 146 Cr.P.C. It is thus noteworthy that the SDM proceedings were set in motion in 2018, at a time when the title suit filed by Opposite Party No. 2 himself was already pending before the Civil Court. The entire episode, reduced to its essence, discloses a situation where both parties were asserting competing claims of title to the same land and were actively contesting a title suit before the competent Civil Court. This fact was well within the knowledge of the SDM, having been explicitly brought on record through the report of the Circle Officer. The SDM, however, sought to sidestep this consideration by taking the position that the proceedings under Sections 145 and 146 Cr.P.C. were concerned not with title but only with apprehension of breach of peace.

2. The precise question thus arising has been authoritatively decided by the Supreme Court in ***Ram Sumer Puri Mahant vs. State of U.P.*** reported in AIR 1985 SC 472, wherein the Court was dealing with a challenge to an order of the Allahabad High Court refusing to interfere in its revisional jurisdiction against an order directing initiation of proceedings



under Section 145 Cr.P.C. and attachment of the property. The Supreme Court observed that in respect of the very same property, a suit for possession and injunction was pending before the Civil Court wherein the question of title and possession had been gone into, and held as under:

“Challenge in this application is to the order of the Allahabad High Court refusing to interfere in its revisional jurisdiction against an order directing initiation of proceedings under Section 145, CrPC (Code for short), and attachment of the property at the instance of respondents 2-5. Indisputably, in respect of the very property there was a suit for possession and injunction being Title Suit No. 87/75 filed in the Court of the Civil Judge at Ballia wherein the question of title was gone into and by judgment dated February 28, 1981, the said suit was dismissed. The appellant was the defendant in that suit. According to the appellant close relations of respondents 2-5 were the plaintiffs and we gather from the counter affidavit filed in this Court that on appeal has been carried from the decree of the Civil Judge and the same is still pending disposal before the appellate court. The assertion made in the Petition for Special Leave to the effect that respondents 2 to 5 are close relations has not been seriously challenged in the counter affidavit. When a civil litigation is pending for the property wherein the question of possession is involved and has been adjudicated, we see hardly any justification for initiating a parallel criminal proceeding under Section 145 of the Code. There is no scope to doubt or dispute the position that the decree of the Civil Court is binding on the criminal court in a matter like the one before us.”



3. The ratio of the aforesaid decision applies with full force to the facts of the present case. Title Suit No. 222 of 2017 filed by Opposite Party No. 2 himself before Sub Judge-I, Jhanjharpur, involving the same parties and the same land, was pending throughout the period when the proceedings under Sections 145 and 146 Cr.P.C. were being prosecuted before the Sub-Divisional Magistrate, Phulparas. Indeed, the Circle Officer's own field report dated 06.04.2019 explicitly noted the pendency of the said title suit and recommended that further action be deferred pending the orders of the Civil Court. The Sub-Divisional Magistrate and the revisional court both failed to give effect to this binding legal position. The impugned order dated 28.06.2022 is accordingly unsustainable.

4. In the result, both Criminal Revision No. 588 of 2018 and Criminal Revision No. 763 of 2018 are allowed. The orders dated 12.05.2018 and 04.07.2018 passed by the Sub-Divisional Magistrate, Phulparas in M.R. No. 158 of 2018, and the impugned order dated 28.06.2022 passed by the Additional Sessions Judge-IV, Madhubani, are hereby quashed. The proceedings under Sections 145 and 146 Cr.P.C. before the Sub-Divisional Magistrate, Phulparas stand terminated. The parties are directed to prosecute the pending title suit and may make such



prayers for possession or for security of possession as may be advised, over which the Civil Court is fully competent to pass appropriate orders.

(Ansul, J)

Vikash/-

AFR/NAFR	
CAV DATE	23.06.2026
Uploading Date	
Transmission Date	

