

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.25 of 2024

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1. Ayush Anand Son Of Late Shailender Kumar @ Shailendra Kumar Singh, R/O Village- Barahiya Tola Dhanraj Ward No. 6, P.O. and P.S.- Barahiya, Dist.- Lakhisarai
 2. Gyanshu Kumar Son Of Late Shailender Kumar @ Shailendra Kumar Singh, R/O Village- Barahiya Tola Dhanraj Ward No.-6, P.O. and P.S.- Barahiya, Dist.- Lakhisarai

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Sub-Divisional Magistrate, Lakhisarai Bihar
3. The Superintendent Of Police, Lakhisarai Bihar
4. The S.H.O. Of Police Station At Barahia, Lakhisarai Bihar
5. Devi Singh Son Of Late Siya Singh R/O Village- Barahiya, Tola Ram Sen Ward No. -4, P.S.- Brahiya, Dist.- Lakhisarai
6. Ramjee Singh @ Amit Kumar Son Of Devi Singh R/O Village- Barahiya, Tola Ram Sen Ward No. -4, P.S.- Brahiya, Dist.- Lakhisarai
7. Jhunni Singh @ Sumit Kumar Son Of Devi Singh R/O Village- Barahiya, Tola Ram Sen Ward No. -4, P.S.- Brahiya, Dist.- Lakhisarai

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ram Sumiran Singh, Advocate Mr. Mukesh Kumar, Advocate
For the State	:	Mr. Gyan Prakash Ojha, GA-7

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

2 25-06-2026 The present writ petition has been preferred by the petitioners for quashing the order dated 17.11.2023 passed by learned Sub-Divisional Magistrate, Lakhisarai in Case No. 52M of 2023 under Section 144 Cr.PC, whereby learned Executive Magistrate has refrained from passing any order, but he has given finding that report of the Circle Officer is true. As per report of Circle Officer, the second party, who are Respondent



Nos. 5 to 7 herein, are in possession of the property in question.

3. Heard learned counsel for the petitioners and learned G.A.-7 for the State.

4. There is no dispute that any order passed by any Executive Magistrate under Section 144 Cr.PC has statutory life for two months unless it is extended by specific order and the maximum period for which the order passed under Section 144 Cr.PC is effective only for six months.

5. Hence, the impugned order passed long back on 17.11.2023 is already inoperative.

6. I further find that under Section 144 Cr.PC, learned Executive Magistrate is competent to pass any preventive order against the person to abstain him from certain act or to take certain order with respect to certain property in his possession or under his management with intent to prevent any obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety or a disturbance of the public tranquility, or a riot, or an affray. But learned Executive Magistrate has given finding regarding possession of the second party i.e. Respondent Nos. 5 to 7 herein. The possession of the land in question which is beyond extended scope of Section 144 Cr.PC.



7. As such, the finding of learned Executive Magistrate regarding possession of the property is nullity for want of any competence of the Executive Magistrate to pass such order under Section 144 Cr.PC.

8. Accordingly, the present writ petition is disposed of.

(Jitendra Kumar, J.)

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