

(2023) 04 PAT CK 0077

In the Patna High Court

Case No : Criminal Revision No. 841 Of 2017, Criminal Miscellaneous No. 62410
Of 2017 In Criminal Revision No. 841 Of 2017

Babloo Singh

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 25-04-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 144, 145

Citation : (2023) 04 PAT CK 0077

Hon'ble Judges : Dr. Anshuman, J

Bench : Single Bench

Advocate : Surendra Kumar Mishra, Shashi Shekhar Dvivedi, Parth Gaurav,
Ashutosh Kumar Pandey

Final Decision : Dismissed

Judgement

Heard learned counsel for the petitioners, learned counsel for the State and learned counsel for the opposite party.

The present criminal revision application has been filed on behalf of the petitioners for setting aside the order dated 18.11.2016 passed by the S.D.M., Bikramganj, District- Rohtas in Case No. 593 of 2016 by which the Court of S.D.M., Bikramganj, District- Rohtas have converted the proceedings under Section 144 of Cr.P.C. into Section 145 of Cr.P.C.

Counsel for the petitioners submit that the said order is bad in law, due to the reason that for the land in dispute, there is already a title suit pending, bearing Title Suit No. 223 of 2016 which was filed on 23.09.2016 i.e. prior to decision of the case dated 18.11.2016.

Counsel for the petitioners submit that in this view of the matter that a title suit is already pending for dispute, the continuation of proceedings under Section 145 of Cr.P.C. is bad in law.

Counsel for the State submits that the proceedings of Section 144 of Cr.P.C. was initiated and thereafter, it was converted into Section 145 of Cr.P.C. that power is vested in the Court of law.

Counsel for the private opposite party submits that the plaint of title suit is annexed as Annexure-8 i.e. T.S. No. 223 of 2016 in which no relief for possession of the property or entitlement of possession of the property have been made, as such the suit shall not disturb in any manner relating to the question of possession.

After going through the pleadings of the parties and upon hearing the arguments, it transpires to this Court that the arguments of petitioners are correct that during pendency of the title suit, the proceedings under Section 145 of Cr.P.C. may not continue but it is permissible only when the question of possession shall be subject of the title suit.

Here in the present case, the question of possession is not the subject of the title suit and in this view of the matter, this Court is of the opinion that continuation of Section 145 of Cr.P.C. is not barred, as the fact of actual possession has to be decided.

In this view of the matter, the present criminal revision application stands dismissed.