

(2007) 01 PAT CK 0050

In the Patna High Court

Case No : Criminal Miscellaneous No. 13212 of 2005

Bindo Sharma

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 25-01-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 144, 145, 482

Citation : (2007) PLJR 662

Hon'ble Judges : Ghanshyam Prasad, J

Bench : Single Bench

Advocate : Pramod Mishra and Vivek Kumar, for the Appellant; R.B.S. Pahepuri and Gopesh Kumar for the State and Mr. Amar Nath Jha, for the Respondent

Final Decision : Allowed

Judgement

Ghanshyam Prasad, J.—Heard. This application u/s 482 Cr.P.C. has been filed to quash the order dated 5.3.2006 passed by 3rd Addl. Sessions Judge, Saharsa in Cr. Revision No. 61 of 2004 thereby and thereunder the learned Additional Sessions Judge confirmed the order dated 13.1.2004 passed by S.D.M., Saharsa in Misc. Case No. 606 of 2003. Through above order, the learned S.D.M. converted a proceeding u/s 144 Cr.P.C. into a proceeding u/s 145 Cr.P.C. over a piece of land bearing Plot No, 198 under Khata No. 132 situated in village Baijnath Patti, P.S. Saharsa, District Saharsa.

2. The only submission of the learned lawyer for the petitioner is that the court below has wrongly initiated a proceeding under sections 144/145 Cr. P.C. over the aforesaid land. Both the parties contested title suit bearing Title Suit No. 3 of 1988. The title suit was decided in the year 1993 in favour of the petitioner against whom the opposite party preferred title appeal which was ultimately decided by 1st Addl. Judge, Saharsa on 15.2.2001 vide Title Appeal No. 10/93 thereby the learned Addl. Judge affirmed the title of the petitioner over the land in question.

3. This fact has not been denied by the learned counsel for the opposite party No. 2.

4. Since the matter has already been settled by the Civil Court, the continuation of the proceeding u/s 145 Cr. P.C. over the same piece of land between the same party is apparently abuse of process of the court. Accordingly, this application is allowed and the impugned order as well as the entire proceeding is hereby quashed.