
(2017) 12 PAT CK 0035

In the Patna High Court

Case No : 2828 of 2017

Dr. Binod Kumar Jha

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 21-12-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 144](#), [Section 144\(5\)](#) - Power to issue order in urgent cases of nuisance or apprehended danger - Power to issue order in urgent cases of nuisance or app

Citation : (2017) 12 PAT CK 0035

Hon'ble Judges : Birendra Kumar

Bench : SINGLE BENCH

Advocate : Kamlesh Kumar, Prabhat Kumar Verma

Final Decision : Disposed off

Judgement

1. Heard learned counsel for the parties.
2. This writ application has been preferred for quashing the order dated 04.11.2017 passed by the Sub-Divisional Magistrate, Patna in Misc. Case No. 2050(M) of 2017 whereby a proceeding under Section 144 of the Code of Criminal Procedure has been initiated for land dispute between the parties bounded as follows:-
East - Pucca Road
West - Pucca Road
North - House No. 1A/3 of Vinod Kumar Kesari
South - House of First Party Sadan Kumar
The police report submitted in the case vide page 44

and 45 of the application would reveal that the dispute arose for alleged encroachment on the land between the house of the petitioner and respondent no. 5 who was first party before the court below.

3. The petitioner has filed a show cause before the court below vide Annexure-3 disclosing his claim and stating the facts that the land under proceeding is within the boundary of the petitioner. Hence, the proceeding is incompetent one.

4. Learned counsel for the State as well as Patna Municipal Corporation submits that the dispute is not with regard to any residential house, rather for vacant land. Hence, this Court should not interfere in the matter in exercise of this extra ordinary jurisdiction.

5. Since the impugned proceeding is preventive and the Magistrate is competent to rescind or alter the proceeding in exercise of power under Sub-section (5) of Section 144 of the Code of Criminal Procedure, it is directed that the learned Sub-Divisional Magistrate, Patna shall pass necessary order on the show cause of the petitioner within 15 days on receipt/production of a copy of this order.

6. Accordingly, this application stands disposed of.