

**Court No. - 10**

**Case :-** CRIMINAL MISC. WRIT PETITION No. - 8266 of 2023

**Petitioner :-** Shiv Sharan Mishra And Others

**Respondent :-** State Of U.P Thru. Addl. Chief Secy. Deptt. Home Govt. Civil Sectr. Lko. And Others

**Counsel for Petitioner :-** Manvendra Singh, Bhupendra Prakash, Manish Kumar

**Counsel for Respondent :-** G.A.

**Hon'ble Mrs. Sangeeta Chandra, J.**

**Hon'ble Narendra Kumar Johari, J.**

1. Heard learned counsel for the petitioners and learned AGA.
2. This petition has been filed with the following main prayers:-
  - A. Issue a writ of certiorari or a writ, order or direction in the nature of certiorari quashing the impugned F.I.R. dated 07.10.2023 registered at Case Crime No.0462 of 2023, under Sections 465, 467, 468 & 471 of I.P.C., P.S. Sursa, District Hardoi as contained in Annexure no.1 to the writ petition, so far it relates to the petitioners.*
  - B. Issue a writ of mandamus or a writ, order or direction in the nature of mandamus commanding and directing the opposite parties not to arrest the petitioners or adopt any coercive proceeding/method against the petitioners in pursuant to the F.I.R. dated 07.10.2023 as contained in Annexure no.1 to the writ petition.*
3. It has been submitted by learned counsel for the petitioners that the petitioners and the opposite party no.4 belong to the same family which traces its roots to a common ancestor Totaram @ Toraram Mishra. The property in question belongs to Totaram from which it devolved to the father of the opposite party no.4 and also to the petitioners. The informant in the impugned FIR has alleged that her mother was living with her and she died on 19.12.1985 after making out a 'will' in her favour on 01.12.1985. However, the petitioners got their name recorded in Prescribed Form 11, showing themselves to be the only legal heirs of her mother ignoring the claim of the opposite party no.4. The opposite party no.4 filed Regular Suit No.222 of

1997. In the said suit, a written statement was filed showing a forged death certificate and forged copies of Parivar Register and other documents. After knowledge was derived of such forged documents, the opposite party no.4 filed Case No.1 of 2009 before the S.D.M., Sadar, Hardoi for correction of date of birth and an order was passed on 20.01.2010 in her favour. The petitioners filed Writ Petition No.2051(MS) of 2010 challenging the order dated 20.01.2010 passed by the S.D.M., Hardoi which writ petition has also been dismissed for want of prosecution on 14.05.2019 by this Court.

4. It has been submitted by the learned counsel for the petitioners that the writ petition filed by the petitioners was dismissed for want of prosecution for which an application for recall has been moved on 19.08.2023.

5. It has been submitted by the learned counsel for the petitioners that the dispute between the parties is civil in nature and has been tried to be given a criminal colour. It has also been submitted that Writ Petition No.2051 (MS) of 2010 having been dismissed without going into the merits of the case and an application having been filed for restoration of the same being pending, it cannot be said that the petitioners have forged the date of death/ death certificate of the deceased's mother of the opposite party no.4.

6. This Court has gone through the impugned FIR and finds a cognizable offence to have been made out. It is a question of evidence to be evaluated by the trial court whether the petitioners have indeed forged death certificate or not.

7. In view of the above, the writ petition is **dismissed**.

**Order Date :- 2.11.2023**

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