

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.47572 of 2008

Arising Out of Complaint Case No.978C Year- 2006 District- SAHARSA

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1. Udai Nath Tiwary
2. Kundan Kumar Tiwary
3. Pawan Kumar Tiwary
4. Pintu Kumar Tiwary
5. Mantu Kumar Tiwary @ Mantu Tiwary

All are sons of late Dasharath Tiwary, resident of village Tiwary Tola, Ward No. 33, P.S. Saharsa, Distt. Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar
2. Kedar Nath Tiwary, retired IVth Grade Government Employee, son of Surya Narayan Tiwary, resident of village Saharsa, Tiwari Tola, Andar Nagar Parishad, Kshetra, Saharsa, P.S. and Distt. Saharsa.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pramod Mishra, Adv.
Mr. Vivek Kumar, Adv.
Mr. Vijay Kr. Mukul, Adv.
Mr. Prafull Chandra Thakur, Adv.

For the State : Mr. Achhihar Singh, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 30-06-2015

Heard learned counsel for the Petitioners and the State.

The Petitioners seek quashing of the order of cognizance dated 6.7.2007 passed by the Judicial Magistrate, 1st Class, Saharsa, in Complaint Case No. 998C of 2006.

The case of the Complainant is that the accused persons who were own family members had prepared forged documents and get mutation of land in their favour.

It has been submitted on behalf of the Petitioners that

even accepting the allegations of the Complaint petition, at best a civil dispute is made out for which a Mutation case has already been filed.

In such circumstances, the present Complaint is a multiplicity of proceeding which should not be maintained.

Considering the aforesaid, the application is allowed and the Proceeding including the order of cognizance dated 6.7.2007 passed by the Judicial Magistrate, 1st Class, Saharsa, in Complaint Case No. 978C of 2006 is set aside. Also Saharsa P.S. Case No. 234 of 2006 and 102 of 2006 as also Complaint Case bearing No. 1320C of 2005 pending before the Chief Judicial Magistrate, Saharsa, in regard to the same dispute, is hereby set aside.

Application stands allowed with the aforesaid observation.

(Anjana Prakash, J)

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