

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.40159 of 2014

Arising Out of PS.Case No. -50 Year- 2013 Thana -WEST CHAMPARAN COMPLAINT District-
WESTCHAMPARAN(BETTIAH)

- =====
- 1Rajan Prasad Yadav @ Rajan Yadav , S/o Shambhu Yadav
 - 2. Pramod Yadav, son of Sudama Yadav, both resident of Pakargaon, P.S. Bagaha, Dist-West Champaran.
 - 3.Rajdeo Prasad, son of Prakash Prasad, resident of village-Nadda, P.S. Bhairoganj, District-West Champaran.

.... Petitioner/s

Versus

- The State of Bihar
- 2. Ravindra Kishore Singh, s/o Late Gorakh Singh, resident of village-Banchahari, P.S. Bagaha, Dist-West Champaran.

.... Opposite Party/s

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with

Criminal Miscellaneous No.5644 of 2015

Arising Out of PS.Case No. -50 Year- 2013 Thana -WEST CHAMPARAN COMPLAINT District-
WESTCHAMPARAN(BETTIAH)

- =====
- 1. Lomus Anthony Brooke @ Lomash Anthoney Broucke Son of Late Ramdhani Brooke, Resident of Mohalla - Bagaha Kothi, P.S. - Bagaha, District - West Champaran.

.... Petitioner/s

Versus

- 1. The State of Bihar

.... Opposite Party/s

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Appearance :
(In Cr.Misc. No.40159 of 2014)
For the Petitioner/s : Mr. Vijay Kr Singh No. 1
For the Opposite Party/s : Mr. Suman Kumari Singh (App)
(In Cr.Misc. No.5644 of 2015)
For the Petitioner/s : Mr. Vijay Kr Singh No. 1
For the Opposite Party/s : Mr. B. N. Pandey(App)

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER**

5 30-03-2015

Heard both sides.

The petitioners apprehend their arrest in Complaint Case No. C-50/2013 under sections 420, 468, 504 and 506 of the Indian Penal Code.

The complainant alleged that he purchased two acres sixty four decimals of land of Plot no. 263 of Khata No. 5/47 through registered sale deed on 5-8-1992 from Peter Anthony Brooke, son of J. W. Brooke and came in possession. The land was also mutated in the name of the wife of the complainant. The accused persons conspired and purchased a piece of land from Lomas Anthony Brooke, son of Peter Anthony Brooke and grandson of J. W. Brooke. It is alleged that the sale deed is fraudulent one as Lomas Anthony Brooke has got no title over the land.

Learned counsel for the petitioners submits that the total area of Plot no. 263 is three acres and odd, out of which the complainant purchased two acres sixty four decimals of land in the name of his wife. Peter Anthony Brook did not sell the rest portion of the land and Lomas Anthony Brooke executed the sale deed in respect of the some piece of land in favour of Rajan Prasad Yadav

and others. The petitioners did not claim any title over the land purchased by the complainant, and on the basis of it, no offence under section 420 or any other sections of the Indian Penal Code is made out.

On the other hand, learned counsel for the complainant submits that petitioner Rajan Prasad Yadav was knowing well that Lomas Anthony Brooke had got no title over the land and even then he executed the sale deed with regard to a piece of land of Khesra No. 263 , Khata No. 5/47. Petitioner Rajan Prasad Yadav filed a petition for mutating his name, and the same was rejected. This fact also shows that no remaining land is left to be sold. On consideration of facts, it appears that Peter Anthony Brooke, son of J. W. Brooke sold the land in the name of wife of the complainant in the year 1992 measuring an area of two acres sixty four decimals. From the perusal of the records, it appears that the total area of Khesra No. 263 of Khata No. 5/47 is three acres forty seven decimals. There appears that some land left to be sold by Peter Anthony Brooke. The vendor Lomas Anthony Brooke is the son of Peter Anthony Brooke. He being the successor of his father sold a piece of land not already sold by his father in favour of the wife of the complainant.

Considering the facts and circumstances of the case, I find

that the dispute is of civil nature. Accordingly, it is directed that in the event of arrest or surrender in the court below within four weeks from the date of receipt/production of a copy of this order, the above named petitioners shall be enlarged on bail on furnishing bail bond of Rs.10,000/-(ten thousand) each with two sureties of the like amount each to the satisfaction of Judicial Magistrate, 1st Class, Bagaha, West Champaran, in connection with Tr. No. 5236/2013 arising out of Complaint Case No. C-50/2013, subject to the conditions as laid down under section 438 of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

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