

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 23970 of 2012

Arising out of P.S. Case No. -25 Year- 2011 Thana –Gaunaha
District- DARBHANGA

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1. Shiv Prasad S/o Late Raghunath Mahto R/o Vill-Belsandi, P.S.-Gaunaha, Distt-West Champaran.
 2. Hemraj Prasad S/o Shri Shiv Prasad R/o Vill-Belsandi, P.S.-Gaunaha, Distt-West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Rajeshwar Prasad S/o Late Kamla Prasad R/o Vill-Belsandi, P.S.-Gaunaha, Distt-West Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Brij Kishore Mishra, Adv.

For the Opposite Party/s : Ms. Gulnar Begam, APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 23-02-2015

The Petitioners seek quashing of the entire proceeding including the order of cognizance dated 16.05.2012 passed by the Chief Judicial Magistrate, West Champaran at Bettiah in Gaunaha P.S. Case No. 25 of 2011.

The case of the Informant is that on 03.03.2011 the accused persons cut away a Shakhua Tree standing on his land and when he protested he was assaulted and threatened.

The submission of the Petitioners is that after due investigation the case was found false and, hence, final report was submitted. However, the Informant filed a Protest Petition upon which cognizance was been taken disagreeing with the Report of the Police. The further submission is that the Petitioners lay bona fide claim upon the land and at one point in time the Complainant had filed Jamabandi Correction Case No. 25/09-10 and Jamabandi was corrected in his name vide order dated 30.07.2009 by the Deputy Collector, Land Reforms, Narkatiaganj. The Petitioner challenged this order before the Additional Collector, West Champaran at Bettiah in

which the Opposite Party No. 2 was noticed and after hearing both the parties vide order dated 10.01.2011 set aside the order dated 30.07.2009. Thereafter, the Complainant preferred a Revision against the said order upon which the matter was remanded to the Additional Collector for passing fresh order. The Petitioners were not heard in the Revision and, hence, they filed a Petition for a fresh hearing. It is under these circumstances that the First Information Report in which the Informant claims land to be under his possession being disputed requires to be set aside.

On the other hand, Counsel for the Informant submits that all these documents have been brought by the Petitioners only to create a Title even though there is no basis for the same.

Having gone through the documents annexed herein and the First Information Report, I would be of the view that in the circumstances the present case in hand and the facts stated therein the allegations appear to be highly improbable and deserve to be set aside.

Hence, the entire proceeding including the order of cognizance dated 16.05.2012 passed by the Chief Judicial Magistrate, West Champaran at Bettiah in Gaunaha P.S. Case No. 25 of 2011 is, hereby, set aside.

The Application stands allowed.

However, the quashment of the present proceeding shall have no bearing on any further claims.

(Anjana Prakash, J)

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