

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No. 198 of 2013

Arising out of P.S. Case No. -null Year- null Thana -null
District- -

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Anupam Raj S/o Shashi Bhushan Singh Resident of Mohalla- Anait,
Gautam Budh Nagar, Gorhana Road, P.S.- Arrah Nawada, District-
Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Kameshwar Prasad S/o Ram Bharosa Prasad Resident of
Mohalla- Anait, Gorhana Road, P.S.- Arrah Nawada, District-
Bhojpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar Singh, Adv.

For the Respondent/s : Mr. Pranav Kumar, APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 17-03-2015

The Petitioner seeks quashing of the order dated
31.01.2013 passed by the Sessions Judge, Bhojpur at Ara in
Cr. Rev. No. 92 of 2012 by which it has set aside the order
dated 02.03.2012 passed by the Sub-divisional Magistrate,
Sadar Ara in Misc. Case No. 08 of 2008 by which he had
dropped a proceeding under Section 133 Cr.P.C.

The case of the Informant is that he had purchased
a certain piece of land from some persons through three
registered Sale-deeds thereafter he came in possession over
the same. The Petitioner purchased a part of land adjacent to
the east of the land of the Informant and who closed the
“Rasta” which was existing on the land. The Informant then
filed an application before the Circle Officer for measurement

of the land who measured the same and submitted report to the C.O.

It is submitted that a proceeding under Section 133 Cr.P.C. was initiated even though the Petitioner was in possession of the land he had no knowledge of the measurement by Circle Officer or the Local Amin. In fact, he never visited the place and submitted a collusive report in favour of the Informant upon which a proceeding under Section 133 Cr.P.C. was initiated. In absence of any notice to the Petitioner in regard to the measurement an initiation proceeding under Section 133 Cr.P.C. was bad. In the meanwhile, the encroachment was removed so the SDM dropped the proceeding on the ground that the land was raiyati.

Considering the facts of the case, the proceeding including the order dated 31.01.2013 passed by the Sessions Judge, Bhojpur at Ara in Cr. Rev. No. 92 of 2012 by which it had set aside the order dated 02.03.2012 passed by the Sub-divisional Magistrate, Sadar Ara in Misc. Case No. 08 of 2008 is, hereby, set aside.

The Application stands allowed.

(Anjana Prakash, J.)

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