

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.14797 of 2009

Arising Out of PS.Case No. 1552 Year- 2008 Thana -null District- SIWAN

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1. Lal Babu Sah
 2. Babban Sah
 3. Sajjan Sah, all are sons of Nageshawar Sah, all are r/o village Tadawa, P.S. Siwan Mufasil, District Siwan
 4. Jiabuda Khatun w/o Qayamuddin Khan, r/o village Tadawa, P.S. Siwan, District Siwan
 5. Sahhaj Khatun w/o Ali Haidar, village Harkesh Barari Uchakagawn, District Gopalganj

.... Petitioner/s

Versus

1. The State of Bihar
2. Ali Akabar Khan s/o Ali Ahamad Khan, village Tadawa, P.S. Siwan Muffasil, District Siwan

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Chandra Kant, Advocate
For the Opposite Party/s : Mr. Sunil Kumar Pandey, APP
For Opposite Party No.2 : None

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 17-07-2015

The Petitioners seek quashing of the order of cognizance dated 10.2.2009 passed by the Judicial Magistrate, 1st class, Siwan in Complaint case No.1552 of 2008 (Trial No.2332 of 2009).

The case of the Complainant is that he had purchased a certain piece of land, which stood in the name of his father and his own name. It was in the knowledge of the accused persons but despite the same some of the accused persons executed a sale deed in favour of the other co-accused in regard to the same piece of land.

It has been submitted on behalf of the Petitioners that the

present Complaint is a counter blast to a case instituted by the Petitioner No.3 bearing Siwan Muffasil P.S. case No.15 of 2007. It is only to screen himself from the vagaries of the prosecution that the present Complaint was filed. Moreover Title Suit has also been filed in regard to the same dispute.

Considering that evidently in the background of a civil suit, the present Complaint for the same cause of action would be multiplicity of proceeding it deserves to be set aside.

Hence, the application is allowed and the order of cognizance dated 10.2.2009 passed by the Judicial Magistrate, 1st class, Siwan in Complaint case No.1552 of 2008 (Trial No.2332 of 2009) is hereby set aside.

However, it is made clear that this Court has not expressed any opinion on the veracity of the claims of either party.

(Anjana Prakash, J)

Narendra/-

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