

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.14930 of 2009

Arising Out of PS.Case No. -0 Year- null Thana -null District- BHOJPUR

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Din Bandhu Singh son of Ram Raj Singh, resident of village Sahpur, P.S. Sahpur,
District Bhojpur, Ara

.... Petitioner/s

Versus

1. The State of Bihar
2. Sitab Chandra Lal son of late Chandrika Lal, resident of village Vaishadih, P.S. Piro, District Bhojpur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Sinha, Advocate

For the Opposite Party/s : Mr. R.N. Jha, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 17-07-2015

The Petitioner seeks quashing of the order of cognizance dated 23.12.2005 passed by the Judicial Magistrate, 1st class, Ara in Complaint case No.1102C of 2003 (Trial No.2349 of 2006).

The case of the Complainant is that he had derived 1/3rd share from his ancestors which had been mutated. However the accused persons conspired to grab the land and executed a forged deed of gift in favour of each other and thereafter attempted to create a controversy in regard to his title and possession. A mutation case was also decided in favour of the Petitioner wrongly.

It has been submitted on behalf of the Petitioner that evidently in the facts of the case the best recourse of the Complainant would have been to file an appeal against the mutation order instead

of filing a Complaint for the same cause of action.

Notices had been issued to the Opposite Party No.2 but none appears on his behalf.

Having looked into the records of the case, I would be inclined to agree with the submissions raised on behalf of the Petitioner. Hence, the application is allowed and the proceeding including the order of cognizance dated 23.12.2005 passed by the Judicial Magistrate, 1st class, Ara in Complaint case No.1102C of 2003 (Trial No.2349 of 2006) is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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