

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.18767 of 2010

Arising Out of PS.Case No. 603 Year- 2009 Thana -null District- SAMASTIPUR

1. Birendra Prasad Singh S/O Shri Tej Narayan Singh R/O Vill.+P.O.- Been Bochaha, P.S.- Mohaddinagar, Distt.- Samastipur, Presently Posted As Section Officer, Animal Husbandry And Fisheries Department, Room No. 807, Nepal House, Doranda, Jharkhand, Ranchi

.... Petitioner/s

Versus

1. The State Of Bihar
2. Awadhesh Kumar S/o Shri Chet Narayan Sharma, R/o village Gopalpur, P.S. Bikram, District Patna presently residing at Judges Colony, R.P.S. Road, Bailey Road, P.S. Danapur, District Patna

.... Opposite Party/s

With

Criminal Miscellaneous No. 14386 of 2014

Arising Out of PS.Case No. -603 Year- 2009 Thana -PATNA COMPLAINT CASE District- PATNA

1. Arun Kumar Verma S/O Late Radha Ballabh Prasad R/O Sector B Shanti Nagar, Mitra Mandal Colony, P.O- Anishabad, P.S- Phulwarisharif, Patna-2

.... Petitioner/s

Versus

1. The State Of Bihar
2. Awadhesh Kumar S/o Shri Chet Narayan Sharma, R/o village Gopalpur, P.S. Bikram, District Patna

.... Opposite Party/s

Appearance :

(In Cr.Misc. No. 18767 of 2010 & Cr.Misc.No.14386 of 2014)

For the Petitioner/s : Mr. Awadhesh Kumar, Advocate

For the State : Mr. Shailendra Kr. 1, APP

Mr. Pramod Kr. Pandey, APP

For Opposite Party No.2 : Mr. Raj Kishore Pd., Advocate

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 24-11-2015

The Petitioners seek quashing of the order of cognizance dated 23.11.2009 passed by the Judicial Magistrate, 1st class, Danapur, Patna in Complaint case No.603C of 2009.

The case of the Complainant is that he was a member of Griha Vishesh Vibhag Karmachari Griha Nirman Samiti and in course

of the same even though he made valid payments he was given land which was not rightfully acquired by the Samiti.

It has been submitted on behalf of the Petitioners that they were office bearers of the Samiti at the relevant time, where the Complainant was a member and with consent the land had been allocated to the Complainant, which unfortunately had a dubious title. The Samiti took all steps for ensuring that the member is not disadvantage in any manner but it could not happen and hence they should not be put on trial.

On the other hand, the Counsel for the Complainant submits that the Petitioners did not take adequate interest in ensuring clear title of the Complainant and hence they should be put on trial.

Even conceding the allegations in the Complaint Petition I fail to understand as to how any personal liability of the Petitioners being office bearers of the Samiti is made out in the facts of the case. Hence, both the applications are allowed and the proceeding including the order of cognizance dated 23.11.2009 passed by the Judicial Magistrate, 1st class, Danapur, Patna in Complaint case No.603C of 2009 without prejudice to either party is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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