

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17331 of 2011

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

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1. Bhaghrasan Yadav, S/O Ratan Yadav Mataufa,
 2. Ramayan Sah, S/O Kisan Sah, both R/O Vill-Rampur Khurdh, P.S.-Gopalganj, Distt-Gopalganj,
 3. Vishwajeet Rai @ Pana Rai, S/O Late Balindra Rai,
 4. Abhijeet Kumar @ Sanjeev Rai, S/O Balindra Rai, both r/o village-Mauza Gopalpur, Poursurai, P.S.-Gopalpur, Distt- Gopalganj

.... Petitioner/s

Versus

1. The State of Bihar &
2. Awadhesh Yadav, son of Indersen Yadav, R/O Vill-Rampur Khurdh, P.S.-Gopalganj, Distt-Gopalganj,

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shanti Kumar, Advocate
Mr. Dhananja Tiwary, Advocate
For the Opposite Party/s : Mr. Rikesh Sinha, Advocate
APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 13-02-2015

1. The Petitioners seek quashing of the order of cognizance dated 13.10.2010 passed in Complaint Case No.255 of 2010/Tr. No.3064 of 2010 by the Sub-Divisional Judicial Magistrate, Gopalganj.

2. The case of the Complainant is that even though he had constructed his house on a certain piece of land, the accused persons sold the same on a forged sale deed to some other persons.

3. It has been submitted on behalf of the Petitioners that fact of the matter is that they lay bonafide claim over the land and therefore they executed the sale deed. Till date, the buyer of the land has not complained that the land did not belong to the

Petitioners. If, at all, at any point in time, the dispute arises in its regard, evidently Civil Court would be the competent Court and not a criminal Court.

4. On the other hand, counsel for the Complainant submits that even though the land belonged to him, it was sold by the accused persons and hence, they should be put on trial.

5. On going through the records of the case, I am of the view that if, at all, buyer of the land is aggrieved with the false sale deed having been executed by the accused persons, he would naturally take them to Court and the Complainant would be spared of any litigation. He can continue to enjoy the property without any fear of dispossession till a Court of competent jurisdiction decides the issue.

6. In view of such, the order of cognizance dated 13.10.2010 passed in Complaint Case No.255 of 2010/Tr. No.3064 of 2010 by the Sub-Divisional Judicial Magistrate, Gopalganj, is hereby set aside in so far as the Petitioners are concerned.

7. The application stands allowed.

(Anjana Prakash, J)

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