

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.38233 of 2011

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

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1. Naresh Pd. Singh S/O Karelal Pd. Singh
2. Arbind Sharma S/O Bhola Sharma
3. Bhola Sharma
4. Bachchan Sharma both sons of Late Baso Sharma
5. Raghvendra Prasad Singh S/O Late Rajendra Pd. Singh
6. Sulo Sharma S/O Asharfi Sharma
7. Ramjee Prasad Singh S/O Late Ayodhya Prasad Singh, all Resident Of Village - Rankodih , P.S.Muffasil , Distt- Khagaria

.... Petitioner/s

Versus

1. The State Of Bihar
2. Suraj Sharma S/O Bano Sharma Resident Of Village - Rankodih , P.S.Muffasil , Distt- Khagaria

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar Singh 2, Advocate

For the State : Ms. Pronoti Singh, APP

For Opposite Party No.2 : Mr. Dewanand Tiwari, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 13-07-2015

The Petitioners seek quashing of the order dated 27.9.2011 passed by the Sessions Judge, Khagaria in Criminal Revision No.118 of 2010, by which he has affirmed the order dated 27.9.2010 passed by the court of Shri Deo Priya Kumar, Judicial Magistrate, 1st class, Khagaria in Complaint case No.1607C of 2009, by which he has issued processes of summons against them.

The case of the Complainant is that he was a title holder and in possession of a certain piece of land, but the accused persons tried to disturb his possession. A proceeding under Section 144 Cr.P.C. was initiated in which the Petitioners filed an application stating therein that they were in possession of the land on the basis of a sale deed.

The alleged sale deed was forged in his opinion. On the date of occurrence the accused persons came upon the fields and started to forcibly occupy the same and hence the present Complaint.

It has been submitted on behalf of the Petitioners that as is indicated in the Complaint Petition evidently it is a case of land dispute and the allegations with regard to assault etc are merely embellishments so as to bring the Petitioners before a Criminal Court.

On the other hand, the Counsel for the Complainant submits that the Petitioners have acted in a highhanded manner and they should be prosecuted.

Having considered the facts of the case, I would be inclined to hold that in the background of land dispute, the present Complaint is unwarranted and deserves to be set aside. Hence the application is allowed and the order dated 27.9.2011 passed by the Sessions Judge, Khagaria in Criminal Revision No.118 of 2010 as also the order dated 27.9.2010 passed by the court of Shri Deo Priya Kumar, Judicial Magistrate, 1st class, Khagaria in Complaint case No.1607C of 2009 are hereby set aside.

However, this order shall not prejudice any other proceedings pending between the parties.

(Anjana Prakash, J)

Narendra/-

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