

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.5880 of 2009

Arising Out of PS.Case No. -0 Year- null Thana -null District- BHABHUA (KAIMUR)

=====

Shamshun Nesha, wife of late Hasnain Khan, resident of village-Mansurpur, P.S.-
Durgawati, District-Kaimut, Bhabua

.... Petitioner/s

Versus

1. The State of Bihar &
2. Sahabuddin Khan, son of late Ajiz Khan, (dead), resident of Mansurpur, p.S.-
Durgawati, District- Kaimur (Bhabua)
 - (I) Ahsanuddin Khan
 - (II) Javed Khan
 - (III) Sanja Khatoon
 - (IV) Parveen Khatoon

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Shyam Bihari Singh, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

=====

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 10-07-2015

1. No one appears on behalf of the Opposite Party

No.2.

2. The Petitioner seeks quashing of the order dated 03.01.2008 by which the Sessions Judge, Katihar, in Cr. Revision No.139 of 2007 affirmed the order of cognizance dated 18.01.2003 passed by the Judicial Magistrate, 1st class, Katihar, in Complaint Case No.119 of 2000.

3. The case of the Complainant is that the accused persons got executed a Sale Deed of the Complainant in their favour.

4. It has been submitted on behalf of the Petitioner that fact of the matter is that the Complainant had two other brothers and

there was no partition amongst them by metes and bounds. The Petitioner is the vendee and the vendor is the brother of the Complainant, who made bonafide claim over the said land. In such circumstances, no criminal offence would be made out.

5. On the last occasion, it was noted by this Court that the Complainant is dead and a vakalatnama has been filed by his heirs. However, there is nothing on record to show that the heirs of the Complainant were ever substituted in the Court below.

6. Be that as it may, on merit, the application is allowed and the order of cognizance dated 18.01.2003 passed by the Judicial Magistrate, 1st class, Katihar, in Complaint Case No.119 of 2000 as also the order dated 03.01.2008 passed by the Sessions Judge, Katihar, in Cr. Revision No.139 of 2007 are hereby set aside in so far as the Petitioner is concerned.

7. The application stands allowed.

(Anjana Prakash, J)

JA/-

U		T	
---	--	---	--