

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.15134 of 2011

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

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1. Smt. Gyanti Devi W/O Sri Sheo Kumar Singh Resident of Village Kateya South Tola, P.S. Ekma, District Saran.
 2. Sheo Kumar Singh S/O Late Paras Singh Resident of Village Kateya South Tola, P.S. Ekma, District Saran.
 3. Umesh Kumar Sharma @ Gungunjee S/O Late Krishna Kumar Lal Resident of Mohalla Mashumganj, P.S. Bhagwan Bazar, District Saran.
 4. Krishna Murti Pandey @ Suman Pandey S/O Late Dr. Rajeshwar Pandey Resident of Mohalla Dahiyawan, P.S. Chapra Town, District Saran.
 5. Pappu Singh S/O Late Bikrama Singh Resident of Village Chhota Telpa (Rawal Tola), P.S. Chapra Town, District Saran.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. Wazid Khan S/O Late Abdul Kadir Khan Resident Of Mohalla Mashumganj, P.S. Bhagwan Bazar, District Sara At Present Resident Of Village Marhan, P.S. Manjhi, District Saran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 13-04-2015

The petitioners seek quashing of the order of cognizance dated 08.06.2014 passed by the Judicial Magistrate 1st Class, Chapra in Enquiry Case No. 60 of 2010, Tr. No. 2136 of 2010 under Section 420 I.P.C.

The case of the complainant is that he was the grand son of Kudarat Ali Khan who was owner of part of the disputed land. On 29.12.2008 the complainant received an information that the petitioners were constructing a boundary wall on his land by capturing

the same claiming title on the basis of a sale deed executed from a person who was a power of attorney holder. It is under these circumstances the present complainant was filed.

It has been submitted that the petitioners are bonafide purchasers and the land is under their possession since execution of the sale deed. Fact of the matter is that on the same cause of action a proceeding was also initiated against the opposite party under Section 144 Cr. P.C. and now a Title Suit is pending.

On the last occasion notices were issued to the O.P. No. 2 but despite receipt of the same by the son, he has chosen not to appear before this Court.

Having considered the facts of the case, I would be inclined to hold that the continuance of the proceeding would be a superfluous in light of the Title Suit. Hence the application is allowed. The order of cognizance dated 08.06.2014 passed by the Judicial Magistrate 1st Class, Chapra in Enquiry Case No. 60 of 2010, Tr. No. 2136 of 2010, is hereby quashed.

However, quashment of the present proceeding shall have no bearing on the claims of the parties.

(Anjana Prakash, J)

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