

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.34727 of 2008

Arising Out of Complaint Case No.65C, year 2008 District- BEGUSARAI

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1. Sachidanand Mishra @ S. N. Azad, son of late Shiv Kumar Mishra.
2. Rajesh Kumar Mishra, son of late Shiv Kumar Mishra.
Both residents of Mohalla Sarvodaya Nagar, Ward No. 33 of Begusarai town, P.S. Begusarai Town, Distt. Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar
2. Sharda Charan Mishra, son of late Bamdeo Mishra, resident of Mohalla Sarvodaya Nagar, Ward No. 33, under Begusarai Town, P.S. Begusarai town, Distt. Begusarai.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No. 13, Adv.
Mr. Rohit Kumar, Adv.

For the Opposite Party No. 2 : Mr. Prashant Kumar, Adv.

For the State : Dr. M.N. Jha, Adv.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 19-05-2015

Heard learned counsel for the Petitioners and the State.

The Petitioners seek quashing of the order of cognizance dated 24.7.2008 passed by the Judicial Magistrate, 1st Class, Begusarai, in Complaint Case No. 65C of 2008.

The case of the Complainant is that on the date of occurrence the accused persons prevented the mason and labourers from plastering the old walls and threw away the prepared cement etc. Thereafter, they fled away from the place of occurrence. With respect to the land in question, a title suit is pending between them.

It has been submitted on behalf of the Petitioners that

evidently, the present Complaint with frivolous allegations has been filed only with a reason to somehow encroach into the passage of the disputed land and title suit with regard to the same piece of land is pending where a grievance can be made.

On the other hand, the counsel for the Complainant submits that since the Petitioners had committed mischief, they should be put on trial.

Having considered the background facts of the case, I would be inclined to hold that the present Complaint is frivolous in nature and deserves to be set aside.

Hence, the application is allowed and the Proceeding including the order of cognizance dated 24.7.2008 passed by the Judicial Magistrate, 1st Class, Begusarai, in Complaint Case No. 65C of 2008 is hereby set aside.

However, this order shall not prejudice to any party in any manner.

(Anjana Prakash, J)

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