

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.29504 of 2009

Arising Out of Complaint Case No.CI-2197 Year- 2008 District- VAISHALI (HAJIPUR)

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1. Asharfi Rai
2. Ram Pravesh Rai
3. Sachidanand Rai
4. Ram Ratan Rai
All sons of late Mukhlal Rai
5. Geeta Devi, wife of Asharfi Rai
6. Sheela Devi, wife of Ram Pravesh Rai
7. Maha Sunder Devi, daughter of Ram Ratan Rai
8. Anita Devi, wife of Sachidanand Rai
All residents of village Saharia, P.S. Desari, Distt. Vaishali

.... Petitioner/s

Versus

1. The State of Bihar
2. Suresh Rai, son of late Kamaldeo Rai, resident of village Saharia,
P.S. Desari, Distt. Vaishali

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar, Adv.
For the State : Mr. Manish Kumar 2, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 11-08-2015

No one appears on behalf of the Opposite Party No. 2.

The Petitioners seek quashing of the order dated 28.5.2009 by which the District and Sessions Judge, Vaishali at Hajipur, in Criminal Revision 52 of 2009 and Criminal Revision No. 78 of 2009 has affirmed the order of cognizance dated 12.2.2009 passed by the Judicial Magistrate, 1st Class, Vaishali at Hajipurin CI-2197 of 2008.

The case of the Complainant is that a certain piece of land belonged to Kamaldeo Rai, Shyamdeo Rai and Mukhlal Rai. Shyamdeo Rai had no son had only three daughters and, therefore, heirs of Mukhlal Rai Petitioners No. 1 to 4 got the shares of 5 decimal

by preparing some documents. On 2.7.2008, the Petitioners No. 1 and 2 executed a sale deed with respect to part of the land in favour of the Petitioners No. 7 and 8 whereas Petitioners No. 3 and 4 executed a sale deed in favour of Petitioners No. 5 and 6 which was without authenticity.

The Complainant alleged that when the Petitioners had no right to execute the sale deed they had committed a legal wrong and, therefore, they should be put on trial.

The submission of the Petitioners is that even conceding the allegation in the Complaint at best a civil dispute is made out. Both the Parties claimed bona fide rights and title over the lands in question in which situation, no criminal offence is made out.

Considering the aforesaid submission, the application is allowed and the order dated 28.5.2009 passed by the District and Sessions Judge, Vaishali at Hajipur, in Criminal Revision 52 of 2009 and Criminal Revision No. 78 of 2009 as well as the order of cognizance dated 12.2.2009 passed by the Judicial Magistrate, 1st Class, Vaishali at Hajipur in Complaint Case No. CI-2197 of 2008, are hereby set aside.

However, this order shall not prejudice any Party in any manner.

(Anjana Prakash, J)

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