

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.7640 of 2011

Arising Out of PS.Case No. 42 Year- 2010 Thana -null District- SASARAM (ROHTAS)

1. Dhanjee Tiwari son of Late Ram Lakhan Tiwari, resident of vilalge Shivpur, P.S. Bikramganj, Distt. Rohtas (Bihar) at present House No. 80B, Bular Labour Colony No.5, Durga Mander Colony Sector 45(C) Chandigar

.... Petitioner/s

Versus

1. The State Of Bihar
2. Sri Shivjee Tiwari S/o Late Ram Lakhan Tiwari, resident of village Shivpur, P.S. Bikramganj, Distt. Rohtas (Bihar)

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajesh Kr. Singh, Advocate

For the Opposite Party/s : Mr. Ahmad Ali, APP

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 27-07-2015

The Petitioner seeks quashing of the order of cognizance dated 6.12.2010 passed by the S.D.J.M., Bikramganj in Bikramganj P.S. case No.42 of 2010 arising out of Complaint case No.68 of 2010.

The case of the Complainant/Informant is that the Petitioner by forging a sale deed had come into possession of a certain piece of land, which belonged to him.

It has been submitted on behalf of the Petitioner that the subject matter of the present case is pending adjudication in Partition Suit No.97 of 2010 and, therefore, for the same cause of action a Civil Suit is pending, which is the right forum for adjudication on the authenticity of the sale deed, the present Complaint should not

proceed. Also in such circumstances, when the Mukhiya and the Sarpanch after enquiry found the grievance of the Complainant false, their prosecution is unwarranted.

In view of aforesaid, the application is allowed and the proceeding so far as the Petitioner is concerned including the order of cognizance dated 6.12.2010 passed by the S.D.J.M., Bikramganj in Bikramganj P.S. case No.42 of 2010 arising out of Complaint case No.68 of 2010 is hereby set aside.

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

(Anjana Prakash, J)

Narendra/-

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