

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 31611 of 2012

Arising Out of PS.Case No. -644 Year- 2011 Thana -null District- AURANGABAD

=====

1. Shiv Mangal Prasad Singh S/O Late Harkh Narayan Singh R/O Village - Bagahi,
P.S. Mali, District - Aurangabad (Bihar)

2. Surendra Prasad Singh S/O Shiv Mangal Prasad Singh R/O Village - Bagahi, P.S.
Mali, District - Aurangabad (Bihar)

.... Petitioner/s

Versus

1. The State of Bihar

2. Amerika Sing S/O Late Narsingh Narayan Singh R/V - Bagahi, P.S. Mali,
District - Aurangabad

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

=====

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 17-04-2015

Learned counsel for the petitioners seeks permission to
withdraw the application of the Petitioner no. 1 since he is dead.

The application so far as the petitioner no. 1 is concerned is
dismissed as having become infructuous.

The petitioner seeks quashing of the order of cognizance
dated 05.04.2012 passed by the Chief Judicial Magistrate,
Aurangabad in Complaint Case No. 644 of 2011.

The case of the complainant is that his father executed a sale
deed in favour of one Shiv Mangal Singh on 10.01.1997 as
exchange, who also executed a sale deed in favour of his father. In
pursuance to the agreement when the complainant came to take
possession of the same, one Bhardul Paswan told him that said land
is his Khatayani land and when he approached the Petitioner no. 1

to settle the dispute, and asked him to give papers of the said land, he denied the same 1. It is also submitted that on 28.07.2011 Petitioners no. 2 & 4 and 5 unknown persons entered into his house and assaulted him.

On the last occasion notices had been issued to complainant but despite services of notice he has not chosen to appear before this Court.

Submission of the petitioners is that by a sale deed dated 09.06.1928 some lands were transferred by Tulsi Dusadh, Jagdhari Dushadh and Sahdeo Dusadh in favour of Babu Dayal Narayan Singh who happened to be grand father of Shiv Prashad Singh. The registered deed was executed on 10.01.1975 and then the petitioner no. 1 got mutated the land in his favour. However, the complainant in order to create disturbance in the peaceful possession, filed the present complaint as well as Title Suit No. 226 of 2011. The submission in this background even conceding the allegations in the complaint petition, at best a civil dispute is made out for which a title suit is already pending.

Having gone through the complaint petition and the aforesaid submissions, I would be inclined to agree with the petitioners. Hence the application stands allowed. The order of cognizance dated 05.04.2012 passed by the Chief Judicial Magistrate, Aurangabad in Complaint Case No. 644 of 2011, is

hereby quashed.

However, this order shall have no bearing on any other proceedings.



(Anjana Prakash, J)