

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.13369 of 2013

Arising Out of Complaint Case No. -177 Year- 2010 Thana -BHAGALPUR COMPLAINT CASE
District- BHAGALPUR

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1. Masudoor Rehman S/O Late Hazi Samiur Rehman
 2. Abbasi Khatoon W/O Sazid Hassan, D/O Late Hazi Samiur Rehman
 3. Nilophar Jabin W/O Md. Taufique Ansari
 4. Md. Mahmoodur Rehman S/O Late Hazi Samiur Rehman
 5. Aquila Khatoon W/O Md. Khatibur Rehman
 6. Md. Khatibur Rehman S/O Late Hazi Samiur Rehman
- All are Resident Of Mohalla- Bhikhanpur, Gumti No.3, P.S.- Ishakchak, Dist.- Bhagalpur
7. Abada Nasrin W/O Allauddin Ahsan Resident Of Mohalla- Jabbarchak, P.S.- Tatarpur, Dist.- Bhagalpur

.... Petitioner/s

Versus

1. The State Of Bihar
2. Md. Qamru Zoha Haidar S/O Badru Zoha Haidar Resident Of Mohalla- Barahpura, P.S.- Ishakchak, Dist.- Bhagalpur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Ghasarvey, Adv.
For the State : Mr. Aditya Narayan Singh No. 1, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 01-09-2015

Heard learned counsel for the Petitioners and the State.

The Petitioners seek quashing of the order of cognizance dated 31.1.2013 passed by the Judicial Magistrate, 1st Class, Bhagalpur, in Complaint case No. 177 of 2010.

The case of the Complainant is that he and his family resided on a certain piece of land and were ready to purchase the same land on a consideration amount fixed, in course of which, he paid the money to the accused persons. When the money was paid, the

possession was handed over to the Complainant but the accused persons once again settled the land in favour of the another person and filed a Title Suit which is pending adjudication. When he protested, the accused persons started to threaten him and committed theft of his personal property.

It has been submitted on behalf of the Petitioners that the Complainant had entered into an agreement for purchase of 50 Katthas 8 Dhurs of land with one Khatibur Rahman and his family members on a consideration amount of Rs.24,41,280/-, in course of which certain amount of money was to be paid. However, the Complainant failed to execute his part of the agreement and started to lay claim upon the land without justification. It has been submitted that another agreement was entered into between Md. Khatibur Rahman and Surya Narayan Chaudhary to which the Complainant himself was a Party. It was the Complainant who had been paid the earnest money but later on he resiled. It was under these circumstances that a Title Suit was filed by Surya Kant Chaudhary vide Title Suit No. 337 of 2009.

Notices had been issued to the Opposite Party No. 2 but none appears on his behalf.

Having considered that even conceding the allegations in a Complaint petition, at best a civil dispute is made out and two Title

suits are pending in its regard, the application is allowed and the Proceeding including the order of cognizance dated 31.1.2013 passed by the Judicial Magistrate, 1st Class, Bhagalpur, in Complaint case No. 177 of 2010, is hereby set aside without prejudice to the parties.

(Anjana Prakash, J)

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