

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.49643 of 2008

Arising Out of PS.Case No. -0 Year- null Thana -null District- GOPALGANJ

- =====
1. Rabindra Nath Pandey.
 2. Bunilala Sah s/o Late Ramlal Sah.
 3. Bibi Kuraisha Khatoon W/o Ali Akbar D/o Ishaque Mian.

.... Petitioner/s

Versus

1. State of Bihar.
2. Satan Sah S/o Late Palakdhari Sah.

.... Opposite Party/s

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Appearance :

For the Petitioner/s :

For the Opposite Party/s : Mr.

Mr. Irshad Ahmad Khan

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 03-07-2015

No one appears on behalf of the O.P. No. 2 on repeated dates.

The petitioners seek quashing of the order of cognizance dated 25.08.2008 passed by the Judicial Magistrate 1st Class, Gopalganj in Complaint Case No. 121 of 2008, Tr. No. 2622 of 2008.

The case of the complainant is that he was in possession of a certain piece of land of which he was sought to be dispossessed by the accused persons. He came to know from the villagers that the accused persons had executed forged sale deed in favour of each other and also filed a criminal case against him.

It has been submitted on behalf of the petitioners that as is indicated in the complaint petition the dispute is essentially civil in

nature and a title suit is pending between the parties for the same piece of land. In fact a civil suit was decided in favour of one of the petitioners. As is evident from Annexure 3, for the same piece of land a proceeding under Section 144 Cr. P.C was initiated where also the complainant was restrained to go upon the land. In such circumstances evidently the present complaint is an abuse of process of the Court.

Having gone through the complaint, I would be inclined to agree with the submissions so raised on behalf of the petitioners. Hence the application is allowed and the order of cognizance dated 25.08.2008 passed by the Judicial Magistrate 1st Class, Gopalganj in Complaint Case No. 121 of 2008 Tr. No. 2622 of 2008 is hereby set aside.

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

(Anjana Prakash, J)

Prakash/-

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