

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 23807 of 2012

Arising out of P.S. Case No. -795 Year- 2010 Thana -Complaint
District- EASTCHAMPARAN (MOTIHARI)

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Kapildeo Ojha S/o Late Dboki Jha R/o Vill-Ojha Tola, P.S-Chakia, Distt-
East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Most. Ramkali Kuar W/o Late Chandradeo Ojha, Resident of Village-
Ojha Tola, P.S.-Chakia, District-East Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Uma Shankar, Adv.
Mr. Jai Prakash, Adv.

For the State : Mr. Bhanu Pratap Singh, APP.

For the Opposite Party No. 2 : Mr. V.S. Srivastava, Adv.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 23-02-2015

The Petitioner seeks quashing of the order dated 03.04.2012 passed by the Sessions Judge, East Champaran at Motihari in Cr. Rev. No. 93 of 2012 by which it has confirmed the order of cognizance dated 12.12.2011 passed by the Judicial Magistrate, 1st Class, East Champaran at Motihari in Complaint Case No. 795-C of 2010 (Tr. No. 1240 of 2011).

The case of the Complainant is that she had derived some lands from the share of her father-in-law for which she had entered into agreement for "Zerposgi" with the accused persons. However, they took her to the Registry Office and instead got a Sale-deed registered in year 1999. However, she did not receive Rs. 2,00,000/- as agreed upon.

It has been submitted on behalf of the Petitioner that fact of the matter is that the Complainant had willingly executed the Sale-deed in the year 1992 as is evident from Annexure-2 and after

eighteen years filed the present Complaint so as to create a dispute. In the meanwhile, the Petitioner being in possession of the land has been paying the land rents.

On the other hand, Counsel for the Complainant submits that it only in 2010 that she learnt that she had been duped in the year 1992 and, hence, there is no delay. Also since it is the Petitioner who had cheated her into executing the Sale-deed there is no justification for allowing the application.

Having gone through the Complaint Petition, I find that evidently the Complaint has been filed after ten years of the execution of the Sale-deed which makes the story improbable specially since there are authentic documents to show that ever since then the Petitioner is paying rent with regard to the same.

Hence, the application is allowed and the proceeding including the order dated 03.04.2012 passed by the Sessions Judge, East Champaran at Motihari in Cr. Rev. No. 93 of 2012 by which it has confirmed the order of cognizance dated 12.12.2011 passed by the Judicial Magistrate, 1st Class, East Champaran at Motihari in Complaint Case No. 795-C of 2010 (Tr. No. 1240 of 2011) is, hereby, set aside so far as the Petitioner is concerned.

The Application stands allowed.

(Anjana Prakash, J)

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