

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.16405 of 2016

Arising Out of PS.Case No. -820 Year- 2015 Thana -BETTIAH TOWN District-
WESTCHAMPARAN(BETTIAH)

- =====
1. Most. Nirmala Devi @ Nirmala Devi Wife of Late Vijay Shankar Sharma Resident of Mohalla - New Bus Stand, Bolbam Kutir, Court Road, P.S.- Bettiah, District - West Champaran
 2. Dhananjay Sharma Son of Late Vijay Shankar Sharma Resident of Mohalla - New Bus Stand, Bolbam Kutir, Court Road, P.S.- Bettiah, District - West Champaran
 3. Most. Prabha Devi @ Most Prabha Kunwar Wife of late Ravi Shankar Sharma Resident of Mohalla - Ramnagar, Nepali Tola, Bhatta, Ward No.2, P.S.- Ramnagar, District - West Champaran
 4. Ranjan Kumar Sharma Son of Late Ravi Shankar Sharma Resident of Mohalla - Ramnagar, Nepali Tola, Bhatta, Ward No.2, P.S.- Ramnagar, District - West Champaran
 5. Raju Kumar Son of Late Ravi Shankar Sharma Resident of Mohalla - Ramnagar, Nepali Tola, Bhatta, Ward No.2, P.S.- Ramnagar, District - West Champaran

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Krishna Prasad Singh, Sr. Advocate
Mr. Navjot Yeshu
For the State : Mr. Binod Kr. 3(APP)
For the informant : Mr. R.V. Pd. Singh @ Sanjay

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

4 15-07-2016 Heard the learned senior counsel for the petitioners,

the learned counsel for the informant and the learned Additional

Public Prosecutor.

The petitioners apprehend their arrest in Bettiah

Town P.S. case No. 820 of 2015 under Sections 406, 420, 467,

468, 471/34 of the Indian Penal Code.



The informant alleged that after partition among brothers of his father his aunt, Sukha Kunwar, executed deed of gift No. 10429 dated 06.06.1985 with regard to 8 bigha 2 katha and 11 ½ dhurs of land in favour of his wife Urmila Sharma. Her name was also mutated vide Mutation No. 1305 but his wife died on 06.09.2013 and subsequently Most. Nirmala Devi, wife of late Vijay Shanker Sharma, and Prabha Kunwar, wife of late Ravi Shanker Sharma, executed sale deed with regard to the same land in favour of their sons.

Sri Krishna Prasad Singh, the learned senior counsel for the petitioners, submits that Sukha Kunwar executed a deed of gift on 19.08.1985 in favour of Anand Shanker Sharma, Gauri Shanker Sharma, Ravi Shanker Sharma, Uma Shanker Sharma and Vijay Shanker Sharma, all sons of Ram Karan Sharma. The informant, Anand Shanker Sharma, also put his signature on the deed of gift along with his brothers. It is submitted that petitioners had no knowledge about the execution of deed of gift by Sukha Kunwar in favour of Urmila Sharma on 06.06.1985 and the informant did not disclose this fact at the time of execution of deed of gift in favour of his brothers and, therefore, petitioners No.1 and 3 executed deed of gift in favour of their sons. It is further submitted that the dispute is of civil nature and

genuineness of deed of gift has not been challenged nor the informant anywhere, in his counter affidavit, stated about the genuineness of his signature on the deed of gift dated 19.08.1985.

On the other hand, the learned counsel for the informant vehemently opposed the prayer for anticipatory bail and submitted that second deed of gift was executed at Motihari whereas the entire lands are situated in the district of Bettiah, West Champaran. The informant has disputed his signature on the second deed of gift but this fact has not been stated in the counter affidavit filed on his behalf.

The informant, Anand Shanker Sharma, and the husbands of Nirmala Devi and Prabha Kunwar are brothers. Sukha Kunwar is their aunt. The informant claimed that Sukha Kunwar executed the deed of gift in favour of his wife Urmila Sharma on 06.06.1985 after partition of property among the husband of Sukha Kunwar and father of informant and his brothers but no paper is filed to show that there was any partition among the brothers of father of informant. The deed of gift is executed in jointness.

Taking into consideration the fact that the informant and petitioners are of the same family and they are claiming lands on the basis of deed of gift executed by same person and the dispute appears to be civil in nature, the above named petitioners,

in the event of their arrest or surrender before the learned court below within a period of four weeks from the date of receipt / production of a copy of this order, are directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, West Champaran at Bettiah in Bettiah Town P.S. Case No. 820 of 2015, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

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