

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.40788 of 2010

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

- =====
1. Rajnath Yadav s/o late Bindhyachal Yadav
 2. Munna Yadav @ Yugal Kishore Yadav s/o latge Chathhu Yadav, both resident of village Pathardei, P.O. and P.S. Jiradai, District Siwan

.... Petitioner/s

Versus

1. The State of Bihar
2. Mahanth Yadav s/o late Rambarai Choudhary, resident of village Pathardei, P.O. and P.S. Jiradai, District Siwan

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kr. Dubey, Advocate

For the State ; Mr. D. Mehta, APP

For Opposite Party No.2 : Mr. Ajay Kr. Pandey, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 23-02-2016

The Petitioners seek quashing of the order of cognizance dated 22.7.2010 passed by the court of Sri D. Kumar, Judicial Magistrate, 1st class, Siwan in Trial No.2720 of 2010 arising out of Complaint case No.1802 of 2009.

The case of the Complainant is that he had planted some trees on his plot and was cultivating his orchard but on the date of occurrence the accused persons disturbed his possession and when he went to the District Magistrate to complain he took no action.

It has been submitted on behalf of the Petitioners that fact of the matter is that there was bona fide land dispute between the parties, which has led to filing a Title Suit No.415 of 2002, in which a

decree was passed in favour of the Petitioners and the execution is pending. In such circumstances, evidently the present Complaint is unwarranted and deserves to be set aside.

On the other hand, the Counsel for the Complainant submits that since the Petitioners had disturbed his possession, they should be put on trial.

Having considered the frivolous nature of allegations and the background facts, the application is allowed and the proceeding including the order of cognizance dated 22.7.2010 passed by the court of Sri D. Kumar, Judicial Magistrate, 1st class, Siwan in Trial No.2720 of 2010 arising out of Complaint case No.1802 of 2009 is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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