

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.39518 of 2011

Arising Out of PS.Case No. -169 Year- 2011 Thana -null District- KISANGANJ

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Sova Chand Agarwal & Ors.

.... Petitioner/s

Versus

The State of Bihar & Ors

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur, Adv.
Mr. Rajeev Lochan, Adv.

For the Opposite Party/s : Mr. B.Ram, APP

For the Bhoodan Yagya Committee: Mrs. Alka Verma, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 13-01-2016

Heard counsel for the petitioner, for the State and the Bhoodan Yagya Committee.

Times without number the case was adjourned for the purpose of enabling the Bhodan Yagya Committee to demarcate its land from the land of petitioner.

In the present case by filing a criminal case, Bhoodan Yagya Committee is claiming that certain land of the Committee has been encroached upon by the petitioner which led to filing of Thakurganj/Galgalia P.S.Case No. 169 of 2011 u/s 447 IPC as well as 3(iv) and (v) of SC & ST (POA)Act.

As it appears the Bhoodan Yagya Committee under the impression that the lands belonging to them has distributed the land to some person but later on it transpired to the petitioners distributed are private land of petitioners.

Counsel for the petitioner submits that the land should be measured and if it is found to be of Bhoodan Yagya Committee it may be demarcated but as per the prayer of the petitioner, basically it appears that it is a

civil dispute but it has taken colour of a criminal case.

As per the averments made in this petition and the counter affidavit, it is a dispute between the parties with regard to title and possession of the land that can only be settled in a civil proceeding cannot be basis to launch a criminal case to settle the civil dispute. It will be relevant to place reliance on the judgment reported in (2006)6 SCC 736 (Indian Oil Corporation v. NEPC India Ltd.).

In view of the said judgment, this Court finds that the continuation of the proceeding is an abuse of the process of the court. Accordingly, the impugned FIR is quashed, parties will be at liberty to approach the Circle Office for the purpose of demarcation of the land. If the Bhoodan Yagya Committee approaches the Circle Officer, he will be obliged to depute an Amin to demarcate the land of Boodan Yagya Committee vis-à-vis the petitioner's land.

With the above observation/direction, this petition is allowed.

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(Shivaji Pandey, J)