

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.24511 of 2013

Arising Out of PS.Case No. -355 Year- 2010 Thana -ROHTAS COMPLAINT CASE District-
SASARAM (ROHTAS)

- =====
1. Dinesh Chandra Jauhari Son Of Ram Narayan Sarraf Resident Of Mohalla- Mahajan Toli, Navratan Bazar, P.S. Sasaram, District- Rohtas
 2. Krishna Bihari Jauhari Son Of Dinesh Chandra Jauhari Resident Of Mohalla- Mahajan Toli, Navratan Bazar, P.S. Sasaram, District- Rohtas
 3. Seema Kumari D/O Dinesh Chandra Jauhari Resident Of Mohalla- Mahajan Toli, Navratan Bazar, P.S. Sasaram, District- Rohtas
 4. Anju Kumari D/O Dinesh Chandra Jauhari Resident Of Mohalla- Mahajan Toli, Navratan Bazar, P.S. Sasaram, District- Rohtas

.... Petitioner/s

Versus

1. The State Of Bihar
2. Musmat Lalita Kuer W/O Late Satya Narayan Kasera, Resident Of Mohalla- Mahajan Toli, Navratan Bazar, P.S. Sasaram, District- Rohtas

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Surendra Kumar Mishra, Advocate

For the Opposite Party/s : Mr. T.N.Thakur (App)

For the O.P.No. 2 : Mr. Bajrangi Lal, Advocate

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL ORDER

4 10-11-2016 Heard learned counsel for the petitioners as well as learned
counsel for opposite party no. 2.

This application has been filed for quashing the order dated 31.01.2013 passed by Sri Sajal Mandilwar, the then Ist Additional Sessions Judge, Rohtas at Sasaram in Criminal Revision No. 288 of 2010 and order dated 21.07.2010 passed by Sub-Divisional Magistrate, Sasaram in Case No. 335 of 2010 whereby and whereunder the S.D.M., Sasaram has started proceeding under Section 133 Cr.P.C. directing the members of 2nd party, who are petitioners, to remove the encroachment

and if there is any objection to submit their show cause.

Admittedly, the land in dispute is not a public place. The said encroachment is not causing public nuisance. The dispute appears purely a private dispute between the two parties for which a proceeding under Section 144 Cr.P.C. or 145 Cr.P.C. can be initiated and not under Section 133 Cr.P.C.

In the result, the order passed by learned Ist Additional Sessions Judge, Rohtas at Sasaram in Cr. Rev. No. 288 of 2010 dated 31.01.2013 and order dated 21.07.2010 passed by S.D.M., Sasaram in Misc. Case No. 335 of 2010 in the matter of Musmat Lalita Kuer Vs. Dinesh Chandra Jauhari are hereby quashed.

However, O. P. No. 2 is at liberty to file petition, afresh before S.D.M., Sasaram in accordance with law.

Accordingly, this application is hereby allowed.

(Jitendra Mohan Sharma, J)

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