

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.55374 of 2015

Arising Out of PS.Case No. -181 Year- 2014 Thana -KOILWAR District- BHOJPUR

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1. Mohan Prasad Chandel, S/o late Kedarnath Chandel Resident of Mohalla-
Pakari, Ara P.S.- Ara Nawada District- Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar
2. Umesh Singh S/o Late Tapeswar Singh Resident of Vill- Gidha P.S.-
Koilar Dist- Bhojpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajani Ranjan Pd. Singh

For the Opposite Party/s Mr. Ganesh Pd. Singh(App)

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

3 11.05.2016 Heard learned counsel for the petitioner as well as learned
counsel for opposite party no.2 and also heard learned Addl. Public
Prosecutor for the State.

Opposite party no.2 was granted the privilege of
anticipatory bail by this court vide order dated 28.1.2015 passed in Cr.
Misc. no. 3672/2015 on the condition that he shall take attempt to get
the sale deed executed by his wife in favour of the informant or return
the entire consideration amount with 9% interest to the informant
within four months from the date of his release.

This cancellation petition has been filed by the petitioner
who happens to be the informant in Koilar P.S. case no. 181/2014
and grievance of the petitioner is that opposite party no.2 failed to
comply with the direction of this court.

Learned counsel appearing for the petitioner submits that up

till now, wife of opposite party no.2 has not executed sale deed in favour of the informant as per direction of this court vide order dated 28.1.2015 passed in Cr. Misc. no. 3672/2015 and, therefore, privilege of bail granted to opposite party no.2 by this court should be cancelled.

Learned counsel appearing for the opposite party no.2 refutes the aforesaid submissions arguing that wife of opposite party no.2 is not ready to execute sale deed in favour of the petitioner and property in question stands in the name of wife of opposite party no.2. It is further submitted that in the above stated circumstance, opposite party no.2 is ready to return consideration amount with interest as directed by this court but the petitioner is not ready to take the aforesaid amount. It is further submitted that opposite party no.2 can not pressurize his wife for execution of the sale deed because she is absolute owner of the aforesaid property and she can take her independent decision in respect of transferring the aforesaid land. However, opposite party no.2 is ready to return the amount in question with interest to the informant, if this court directs the same.

It is not in dispute that property in question stands in the name of wife of opposite party no.2 and opposite party no.2 does not have any right, title or possession over the property in question and, therefore, it is only wife of opposite party no.2 who can execute sale deed in favour of the petitioner but as per submissions advanced on behalf of opposite party no.2, wife of opposite party no.2 is not ready to execute sale deed in favour of the petitioner and, therefore, in the aforesaid circumstance, in my view, opposite party no.2 can avail



second option given by this court in order dated 28.1.2015 passed in Cr. Misc. no. 3672/2015.

Since petitioner is reluctant to accept the above stated amount, in my view, it would be proper to direct the opposite party no.2 to deposit the consideration amount with 9% interest in the court below within one month from the date of receipt/production of a copy of this order and if opposite party no.2 does so and the informant makes prayer before the court below for withdrawal of the aforesaid amount, the concerned court shall release the aforesaid amount in favour of informant but if opposite party no.2 fails to deposit the aforesaid amount, the concerned court shall cancel the bail bonds of opposite party no.2.

In view of the aforesaid observations, this cancellation petition stands dismissed.

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(Hemant Kumar Srivastava,J)

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