

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40028 of 2016

Arising Out of P.S. Case No. -322 Year- 2013 Thana -COMPLAINT CASE District- SUPAUL

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1. Md. Saukat Ali, son of Hazi Nazir,
 2. Md. Imrul @ Md. Amrul, son of Md. Muslim, both resident of Lalpur Goith,
 3. Md. Wahab @ Md. Bahar, son of Md. Tazimuddin,
 4. Samshad Alam, son of Md. Wahab @ Wahab, both are resident of Village – Baria Kamal, all are of P.S. Birpur, Dist. Supaul.

.... Petitioner/s

Versus

1. The State of Bihar
2. Bishwanath Dev, S/o Late Makeswar Lal Dev, R/o Vill. Bairiya Choudhary, P.S. Birpur, Dist. Supaul.

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Arun, Advocate.

For the Opposite Party/s : Mr. B.N. Pandey, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 22-09-2016

Heard both sides.

The petitioners, four in number, apprehend their arrest in Complaint Case No. 322C/13 filed under Sections 420, 467, 468, 471 and 120B of the Indian Penal Code.

The complainant alleged that the lands of Khata No. 48 and 43 belong to him and his ancestors but the accused Deochandra Jha fraudulently executed a sale deed concealing the said fact. Learned counsel for the petitioners submits that the dispute is purely of civil nature. The complainant filed Title Suit No. 145/2007 for declaration of title and confirmation of possession and also filed a petition under Order XXXIX Rules 1 &



2 of the Code of Civil Procedure for grant of ad interim injunction but the petition of the complainant filed under Order XXXIX Rules 1 and 2 C.P.C. was dismissed on 11.12.2013. The case of the complainant is that the lands were standing in the name of Mini Lal and after his death, Makeswar Deo and his wife came in possession of the said lands. After death of Makeswar Deo, the complainant and his mother came in possession of the lands but in the Khanapuri, the name of Nityamaya Devi, wife of Kushum Lal Jha, was entered along with the name of Vishwanath Deo (the complainant). In the Chakbandi proceeding, Nityamaya Devi filed a petition for getting the lands entered in her name vide objection no. 56/75 and 57/75 but the objection was dismissed. She filed appeal no. 192/78 and 120/78 but the both the appeals were dismissed by the Deputy Director (Consolidation), Saharsa. The Director (Consolidation) set aside both the aforesaid orders and entered the name of Nityamaya Devi in the record of rights. Mosmat Dubiya never executed any sale deed. Kusum Lal Jha is said to have purchased the lands from Mosmat Dubiya. It is submitted that petitioner no. 1 Deochandra Jha is the grand son of Nityamaya Devi and he sold his own lands.

Considering the facts that the dispute appears to be civil in nature as the vendor of the land claiming that the aforesaid

lands were purchased by her grand-mother Nityamaya Devi from the grand-mother of the complainant, 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) each with two sureties of the like amount each to the satisfaction of the learned S.D.J.M., Birpur (Supaul) in Complaint Case No. 322C/13, 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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