

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.42166 of 2014

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Ram Swarath Sah S/o Late Parsan Sah Resident of Village Koeli, P.S. Bathanaha,
District Sitamarhi.

.... Petitioner

Versus

1. The State of Bihar
2. Rameshwar Sah S/o Ram Ekbal Sah Resident of Village Koili, P.S. Bathanaha,
District Sitamarhi
3. Laxmi Rani W/o Ramyas Sah
4. Mukesh Sah S/o Ramyas Sah
5. Ramyas Sah S/o Yugeshwar Sah
6. Jayesh Kumar Neeraj S/o Ramyas Sah Opp. Parties No. 3 to 6 are R/o Village
Rampur Belahi, P.S. Parihar, District Sitamarhi.

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Alok Kumar Jha, Advocate
For the Opposite Parties : Mr. Navin Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 30-08-2017

This criminal miscellaneous application under Section 482 of the Cr.P.C. has been filed to quash the order dated 16.04.2014 passed by SDM, Sitamarhi in Case No.521 of 2013 whereby and whereunder the SDM refused to appoint receiver under Section 146(1) of the Cr.P.C.

2. Heard learned counsel for the petitioner, learned counsel for the Opposite Party No.2 as well as learned APP for the State.

3. The petitioner claims the land of Khata no.269 and 270 by virtue of registered deed of gift dated 06.05.1978 executed by one



Rameshwar Sah. The claim of the Opposite Party over the said land is on the basis registered sale deed which was executed by Shivkumari Devi and her husband and also on the basis of a deed of gift. Both the parties started claiming the said land by virtue of their registered deed of gift/sale deeds. A proceeding under Section 144 of the Cr.P.C. was initiated which was converted into proceeding under Section 145 of the Cr.P.C. The petitioners filed a petition under Section 146 of the Cr.P.C. and the land in question was attached by SDM, Sitamarhi as per order dated 26.06.2013. The Opposite Party No.2 challenged the said order by filing Cr.Misc.No.38749 of 2013 before this Court. After hearing both sides the order of SDM was set aside and the matter was remanded for fresh hearing after giving proper opportunity to both the parties. The matter was again heard by SDM and the petition filed under Section 146 of the Cr.P.C. was rejected.

4. After hearing the learned counsels for both the parties and perusing the documents on record, I find that a title suit no.25 of 1978 was filed by the vendor of Opposite Party which abated in view of provision of Section 4(c) of Bihar Consolidation (Prevention of Fragmentation) Act. In this regard, consolidation case bearing no. 672, 673 and 674 was filed before the Consolidation Officer which were allowed in favour of Opposite Parties vide order dated 02.03.1987 and the land in question was ordered to be recorded in the



name of Opposite Parties. Against the said order two appeals bearing Appeal No.97 of 1987 and 161 of 1987 were filed by both the parties before Deputy Director of Consolidation of Sitamarhi. The appeal no.97 of 1987 filed by the petitioners was dismissed and the appeal no.161 of 1987 filed by Opposite Party was allowed. The petitioners filed a revision bearing no.2852 of 1987 before Joint Director of Consolidation which after hearing was dismissed on 04.1.1991. The deed of gift, which is the basis of title of petitioners has been disbelieved by the Consolidation Court and the name of Opposite Party No.2 has been finally recorded over the said land. The matter is presently pending before SDM for evidence and several witnesses have been examined. I do not find any illegality in the order in question whereunder the SDM has refused to attach the land.

5. In view of the above facts, the present criminal miscellaneous application appears to be devoid of merit and is accordingly dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	05.09.2017
Transmission Date	05.09.2017

