

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.39795 of 2017

Arising Out of PS. Case No.-109 Year-2016 Thana- LODIPUR District- Bhagalpur

Gayatri Devi W/o Pramod Kumar Singh resident of Village - Jamshi, P.S. -
Lodipur, District - Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Uday Pratap Singh S/o Late Bhagwan Prasad Singh resident of Village -
Jamshi, P.S. - Lodipur, District - Bhagalpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dewendra Narayan Singh

For the Opposite Party/s : Mr. SRI MITHILESH KUMAR KHARE

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

6 21-03-2018 The petitioner has challenged the order dated

17.03.2017 passed by the learned 1st Additional

Sessions Judge, Bhagalpur in A.B.P. No. 384 of 2017

whereby the opposite party no. 2/Uday Pratap Singh

has been granted the privilege of anticipatory bail.

The case of the petitioner is that the opposite party

no. 2, knowing fully well that the concerned land did

not belong to him, executed a sale deed in favour of the

petitioner. The sale deed was executed on 01.08.2005.

Only on 18.08.2016, the petitioner came to learn that

Jamabandi of the land in question stood in the name of

Md. Yakub and Md. Suleman.



Taking into account the fact that the land was vended by a registered sale deed by opposite party no. 2 to the petitioner and that the petitioner was coming in exclusive possession of the same for the last several years, the court below granted anticipatory bail to the opposite party no. 2 by holding that if at all there was any dispute between the parties, it could be only in the domain of a civil dispute. In case a wrong piece of land was vended to the petitioner, the consideration money could be recovered from the opposite party no. 2 after observing the due process of law.

It appears from the records that the grand-father of the opposite party no. 2 was the Sikmidar of Khesra No. 88 since 1941. The ancestors of opposite party no. 2 had been coming in cultivating possession of the land in question. Even after the vesting of the Jamindari, nobody came forward to claim right, title or interest over the said land. The petitioner also genuinely believed that he had stepped into the shoes of his ancestors and since he was cultivating the said land without

any objection, executed the sale



deed in the year 2005 on the request of the petitioner. Had there been any intention of opposite party no. 2 to cheat the petitioner, he would have made attempts to take possession of the land after obtaining consideration money from the petitioner. According to the opposite party no. 2, the petitioner has been enjoying the usufructs of the land in question.

Under what circumstances, the Jamabandi of the land stood in the name of Md. Yakub and another is not known. Under such circumstances it was only desirable that the court below granted anticipatory bail to the opposite party no. 2.

This Court does not find any reason to interfere with the aforesaid order.

The petition is dismissed.

krishna/-

(Ashutosh Kumar, J)

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