

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45939 of 2014

Arising Out of PS.Case No. -296 Year- 2010 Thana -ARA NAWADA District- BHOJPUR

- =====
1. Prabhunath Yadav, s/o late Ramdeo Yadav, r/o vill-Saraiya, PS- Krishnagarh, Dist-Bhojpur
 2. Lavkush Yadav, s/o Harendra Yadav, r/o vill-Saraiya, PS- Krishnagarh, Dist-Bhojpur
 3. Nagendra Yadav, s/o Munarik Yadav, r/o vill-Nagopur, PS- Ara Mufasil, Dist-Bhojpur
 4. Samikant Mishra, s/o late Rameshwar Mishra, r/o vill-Nima, PS- Dhanarua, Dist-Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Deo Kishore Mishra, s/o late Atiraj Mishra, r/o vill-Bela, PS- Ara Mufasil, Dist-Bhojpur

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Anil Kumar

For the Opposite Party/s : Mr. Ashok Kumar (App)

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

5 14-03-2018 Although the opposite party no. 2 has been

validly served as per the office report, the opposite party no. 2

has failed to appear either in person or through his Counsel.

The learned counsel for the petitioners Mr.

Anil Kumar and the learned APP for the State, Mr. Ashok

Kumar are present.

The case of the complainant in brief is that the

uncle and aunt of the opposite party no. 2, since deceased,

used to treat the opposite party no. 2 as their son and during

their lifetime, they had made *Mokhatarnama* pertaining to the



land in dispute to the petitioners herein, hence the opposite party no. 2 was continuing in possession of the said land. It is further alleged that the accused persons including the petitioners herein had conspired together and prepared forged documents with regard to the disputed land and after the accused persons had come to the said land and had tried to cut the crops, the opposite party no. 2 visited the office of the Registrar to make an enquiry and then he came to know that the accused persons had fabricated documents pertaining to the said land in their own names. The further allegation is that the accused persons in conspiracy have grabbed the land of the opposite party no. 2 by preparing forged and fabricated documents.

The learned counsel for the petitioners submits that after the land was purchased by the petitioners herein, mutation was carried out and against the said order, the opposite party no. 2 preferred a Mutation Appeal no. 130 of 2011-12, before the L.R.D.C. Ara Sadar, Bhojpur but the same was rejected by an order dated 04.06.2012, which has been brought on record by way of supplementary affidavit.



The entire allegation leveled by the complainant is purely a civil dispute and the remedy of the opposite party no. 2, if any, lies before the competent Court of civil jurisdiction.

I further find that the very basis of the allegation is also belied from the fact that the opposite party no. 2 has unsuccessfully preferred an appeal against the order of mutation dated 23.03.2011 and the same has been dismissed, hence there is no basis for filing a complaint petition.

Having heard the learned counsel for the parties and after going through the records of the case, I find that no cognizable offence is made out upon a bare reading of the complaint petition and moreover, the entire allegation leveled in the complaint petition by the opposite party no. 2, at best, can be said to be a dispute of a civil nature, for which the opposite party no. 2 had rightly taken recourse to civil proceedings by filing a Mutation Appeal, though unsuccessfully.



In such view of the matter, I find that continuance of the present criminal proceeding would be an abuse of the process of the Court. Hence, the order dated 01.02.2011 passed in Ara Nawada PS case no. 296 of 2010 by the learned Judicial Magistrate 1st class, Ara (Bhojpur) is hereby quashed.

The petition is allowed.

(Mohit Kumar Shah, J)

BTiwary/-

U		T	
---	--	---	--

