

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.31530 of 2014**

Arising Out of PS. Case No.- Year- Thana- District- Nawada

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Suresh Singh @ Suresh Prasad Singh S/o Late Deoki Singh R/o village- Siur,  
P.S.- Roh, District- Nawada

... .. Petitioner/s

Versus

1. The State of Bihar
  2. Ramjee Singh Son of Late Deoki Singh
  3. Sunil Kumar Son of Ganesh Singh
- Both are resident of village- Siur, P.S.- Rohtas, District- Nawada, Presently  
residing at Station Road (Near Devi Asthan), P.S.- Nawada

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Siyaram Pandey  
For the Opposite Party/s : Mr. Narendra Kr. Singh (App)

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**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR**  
**ORAL JUDGMENT**

**Date : 20-07-2018**

Heard learned counsel for the parties.

2. The petitioner by filing a quashing application under  
Section 482 of the Criminal Procedure Code (hereinafter referred  
to as ‘the Code’) seeks setting aside of the order dated 24.02.2014,  
passed by learned Additional Sessions Judge (Adhoc)-IV, Nawada  
in Criminal Revision No.114 of 2012 whereby he has upheld the  
order dated 06.10.2012, passed by the Executive Magistrate, Sadar  
Nawada in Misc. Case No.338 of 2009/03 of 2011 declaring the  
factum of possession of the land situated in Mauza Mirzapur  
Jagjivan, Thana No.360 of Old Khata No.172 and Plot No.376 in  
favour of Ramjee Singh, the opposite party no.2, who happens to



be the first party in the proceeding before the Magistrate. The land in question, which is part of 3.50 decimal land was given to all three brothers by maternal grandmother by way of gift deed and later on by family partition it was divided into three shares and one of the brother constructed the house over his share 20 years back and the first party in Misc. Case No.338 of 2009 filed a petition for initiating a proceeding under Section 145 of the Code for declaring the factum of possession of the land in question in his favour as interference was being made by the other side, the full brother of the first party who happens to be the petitioner in the present case.

3. Learned counsel for the petitioner submits that the Executive Magistrate has wrongly held the possession in favour of the first party because already the petitioner was paying holding tax to the Nagar Parishad as the map was sanctioned in favour of the petitioner.

4. Learned counsel appearing on behalf of opposite party nos.2 and 3 submits that the petitioner got map of residential house sanctioned to be constructed on the entire land, 3.50 decimal, the total land gifted by the maternal grandmother and no building was ever constructed over the said land, so obtaining holding number over the vacant land without any structure is forged one and rightly observed by the Additional Sessions Judge in the impugned order.



5. Having considered the rival submissions and on perusal of the records, the Court does not find any error in the impugned revisional order as well as in the finding of the Executive Magistrate relating to the factum of possession. The first party claims only 1/3 share of land of the gift deed and in the proceeding under Section 145 Cr.P.C., the factum of possession on the basis of appraisal of evidence on record was also found in favour of the first party; whereas the other side who is petitioner in this case claims the entire gifted land to all three brothers by the maternal grandmother and obtaining holding number without any residential structure over the land itself is indicative of a fraudulent act, so in view of the aforesaid discussion, the Court does not find any merit in this quashing application.

6. In result, the quashing application stands dismissed.

**(Arun Kumar, J)**

S.KUMAR/-

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