

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.52501 of 2018

Arising Out of PS.Case No. -105 Year- 2017 Thana -EAST CHAMPARAN COMPLAINT District-
EASTCHAMPARAN (MOTIHARI)

- =====
1. Umesh Kumar Gupta Son of late Hiralal Sah Resident of Village- Tumrhiya Tola, P.S. Raxaul (O.P. Haraiya), District- East Champaran.
 2. Nageshwar Das Son of late Budhan Das Resident of Village- Chikni, P.S. Raxaul (O.P. Haraiya), District- East Champaran.
 3. Ashok Kumar Son of late Suresh Prasad Resident of Village- Phulwar, P.S. Banjariya, District- East Champaran.
 4. Jitan Sah Son of Dharichhan Sah Resident of Village- Chikni, P.S. Raxaul (O.P. Haraiya), District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Mohan Sah Son of late Ram Kawal Sah Resident of Village: Chikni, P.S: Raxaul O.P. Haraiya, District- East Champaran.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma, Advocate

For the Opposite Party/s : Mr. Kumar Virendra Narayan, APP

=====

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

3 11-09-2018 Heard learned counsel for the petitioners as well as
learned APP.

It has been alleged at the end of O.P. No.2/complainant that his widow Bhaujai has been allured by other petitioners who got sale deed executed in favour of petitioner, Umesh Kumar Gupta for an area more than her share on 04.07.2008 through registered sale deed whereupon, Nageshwar Das stood as witness while Ashok Kumar happens to be scribe. Jitan Sah has been identified as broker. Then it has been disclosed that when this land has been acquired by the Government of India and during course of payment of



compensation dispute arose whereupon, the aforesaid eventuality has been traced out.

It has been submitted on behalf of learned counsel for the petitioners that land is under their possession on the basis of sale deed. If the O.P. No.2/complainant has any grievance, he ought to have instituted a title suit for cancellation of the sale deed within stipulated period of three years but, having failed on that very score, and further having evil eye over the amount of compensation which the Government is going to give in lieu of acquisition, this case has purposely been filed in order to exploit the situation covering nine years without any plausible explanation.

Apart from this, it has also been submitted that even accepting the case of the complainant, executant of the petitioners who happen to be accused No.1, Phulmati Kuwar has got half share and as per prosecution case she had executed sale deed of the whole area, then in that circumstance, unless and until there happens to be proper identification of land having been allotted under the share of each of the them, it could not be said that the sale deed executed by Phulmati Kuwar happens to be non recognizable in the eye of law.

Learned APP along with learned counsel for the O.P.



No.2/complainant have opposed the prayer. They further submitted that the land happens to be Gharari of the family which mischievously been sold away by Phulmati Kuwar.

Considering the material in its totality, petitioners, namely, 1. Umesh Kumar Gupta, 2. Nageshwar Das, 3. Ashok Kumar, and 4. Jitan Sah , in the event of their arrest or surrender within a fortnight, are directed to be released on bail on furnishing bail bond of Rs. 10,000/- each with two sureties of the like amount each to the satisfaction of Sub-Divisional Judicial Magistrate-Raxaul, East Champaran at Motihiari in Sessions Trial No. 2420/2018 arising out of Complaint Case No. C-105/2017, as laid down under Section 438(2) of the CrPC.

(Aditya Kumar Trivedi, J)

perwez

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

