

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17781 of 2017

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Mithilesh Gautam S/o Nand Kishore Roy, Resident of Village- Saidpur, P.S.-
Gopalpur, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Ram Dulari Devi, W/o Late Sukhdeo Singh,
3. Prem Lata Devi, D/o Late Sukhdeo Singh,
4. Indu Devi, D/o Late Sukhdeo Singh,
5. Ira Rani, D/o Late Sukhdeo Singh,
6. Deepa Rani, D/o Late Sukhdeo Singh,
7. Gopa Rani, D/o Late Sukhdeo Singh,
8. Ajay Kasyap, S/o- D/o Late Sukhdeo Singh @ Sukhdeo Prasad Singh, All
the above O.Ps are residents of Village- Tetari, P.S.- Naugachia, District-
Bhagalpur, Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Purushotam Sharma, Adv
For the State	:	Mr. Suresh Prasad Singh, APP
For Opposite Party No.8 :	:	Mr. Rajesh Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

8 19-04-2019 Heard learned counsel for the petitioner, learned APP
as well as learned counsel for OP No.8.

2. The present episode depicts a classic example as to
how the litigation is forced to crop up.

3. After death of father, namely, Sukhdeo Singh @
Sukhdeo Prasad Singh, OP No.8, Ajay Kashyap, the only son of
late Sukhdeo Singh @ Sukhdeo Prasad Singh got a sale deed
executed in favour of Diwakar Kumar on 09.09.1999 relating to



44 Decimal of land bearing Khata No. 941, Khesra No. 2698, total area 96.5 decimal. The aforesaid Diwakar Kumar executed sale-deed in favour of Ranjit Kumar Choudhary with regard to the aforesaid land on 17.08.2009 and the aforesaid Ranjit Kumar Choudhary has executed sale-deed on 12.07.2013 in favour of petitioner relating to 22 Decimal of land out of 44 Decimal.

4. From Annexure-6, it is evident that a Title Suit No. 85/2009 has been drawn up at the end of wife (mother of OP No.8) and daughter, (sisters of OP No.8) before Sub-Judge, Naugachia, Bhagalpur. It is also evident from the cause title of the plaint of Title Suit No.85/2009 that petitioner has also been made defendant no.4. The reliefs so sought for, apart from others is with regard to declaration of sale-deed dated 09.09.1999, 17.08.2009, 12.07.2013 did not find upon the plaintiff. It is further evident that vide order dated 15.01.2014, a proceeding under Section 145 CrPC has been drawn up under Misc. Case No. 08/2014 (Smt. Ram Dulari Devi v. Mithilesh Gautam) and then thereafter, during continuance of the aforesaid proceeding vide order dated 01.03.2017, the land under dispute has been attached in accordance with Section 146 of the CrPC.

5. From the recital of the plaint, it is evident that total



area of Khesra No. 2698 is 1 Acre 93 Decimal out of which half share has been claimed at the end of the OP, that means to say, appertaining to 96.5 Decimal and out of the same, 44 decimal has been sold away by the OP No.8 and out of 44 Decimal 22 Decimal has been in favour of the petitioner. From the plaint, it is further evident that northern half of the plot has been shown to be possessed by the Sukhdeo Singh, husband and father of OPs. When the proceeding has been properly gone through, it is evident that it relates to 45 Decimal having boundary, North-Binod Singh and Pramod Singh, South-Dr. Arun Kumar and others, East- First Party, West-Road.

6. The proceeding has been initiated in the year 2014 having identity of the petitioner, then in that circumstance, there should have been proper identification of the land because of the fact that in the order impugned there happens to be presence of dhaba, and not sold by the OP No.8, or it happens to be distinct area as per agreement where it has been disclosed that dhaba stood on the same area having in favour of brother of the petitioner. That being so, the proceeding suffers under vagueness and in the same way malady persisted with regard to order dated 01.03.2017 by which, land under dispute has been attached. This fact be considered through another way. Title suit



has been filed with regard to the land covered under sale-deed dated 09.09.1999 and subsequent sale-deed in pursuance thereof. So, the ultimate finding of the Civil Suit will govern the issue. So, multiplicity of litigation has got no purpose as all kinds of interim reliefs could be available therein.

7. Consequent thereupon, both the orders are set aside. Petition is allowed.

(Aditya Kumar Trivedi, J)

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