

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31884 of 2017

Arising Out of PS. Case No.-1040 Year-2007 Thana- GAYA COMPLAINT CASE District-
Gaya

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Baikunth Mishra Son of late Dineshwar Mishra Resident of Village- Chapuk,
P.S.- Goh, District- Aurangabad, Presently residing at Baljori Bigha, S. Near
Katari Hill Road, Near -Irrigation Department, P.S.- Chandauti, District-
Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Ramadhar Singh Son of late Ramdhani Singh @ late Ramdhari Singh
Resident of Village- Dubhal, Police Station- Magadh Medical College,
District- Gaya.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sharda Nand Mishra
For the Opposite Party/s : Mr.Sri Atul Chandra

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 17-09-2019 The present application is second attempt to get the

bail of opposite party no. 2, Ramadhar Singh cancelled, who

was granted bail vide order dated 10.05.2010 passed in Cr.

Misc. No. 10710 of 2010 in Complaint Case No. 1040 of 2007,

wherein process was directed to be issued after cognizance

being taken for the offences punishable under Sections 406, 419,

467 and 468 of the Indian Penal Code, pending in the Court of

learned Judicial Magistrate, Ist Class, Gaya.

It is alleged in the complaint petition that opposite
party no. 2 transferred a piece of land to the complainant but the
same has subsequently been transferred to some other person.



On submission being made on behalf of opposite party no. 2 that the land transferred to the complainant has not been transferred to some other person rather a part of the same plot, which is not part of the earlier transferred land, has been transferred and on the basis submissions made on behalf of the complainant to the effect that opposite party no. 2 will get the issue resolved in four month's time, the opposite party no. 2 was granted bail with liberty to the petitioner-complainant to file application for cancellation of bail if the matter is not resolved within the stipulated undertaken time schedule.

Consequently, petitioner preferred Cr. Misc. No. 1043 of 2011 for cancellation of bail of opposite party no. 2 on the ground that the matter could not resolved since no initiation was taken by the opposite party no. 2, however, considering the report of Vice-Chairman, Nagar Panchayat, Bodh Gaya dated 20.08.2011 to the effect that the land transferred in favour of the petitioner by opposite party no. 2 has not been sold to anyone and the petitioner is in peaceful possession of the land transferred in his favour by opposite party no. 2, the earlier application for cancellation of bail was disposed of vide order dated 21.09.2016 passed in Cr. Misc. No. 1043 of 2011.

Learned counsel for the petitioner submits that now



Title Suit No. 10 of 2017 has been filed for the same dispute and on the basis of the wrong report of Vice-Chairman, Nagar Parishad, Gaya the earlier cancellation application was rejected.

Learned counsel for the opposite party no. 2 submits that earlier application being Cr. Misc. No. 1043 of 2011 for cancellation of bail on the same ground was rejected vide order dated 21.09.2016 and title suit is pending between them for same issue.

Considering the rival submissions of the parties, this Court is not inclined to interfere in the matter on two grounds firstly the second application for cancellation of bail of opposite party no. 2 is not maintainable and secondly the petitioner ought to have challenged in appropriate proceeding the earlier order dated 21.09.2016 passed in Cr. Misc. No. 1043 of 2011, whereby this Court declined to cancel the bail of opposite party no. 2. Now in the present proceeding the disputed question of fact with regard to civil nature of dispute cannot be decided and hence, this application is absolutely misconceived.

Accordingly, the present application is dismissed.

(Dinesh Kumar Singh, J)

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