

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55748 of 2024

Arising Out of PS. Case No.-1103 Year-2021 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

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1. Sanjay Kr. Sah son of Prithavi Chandra Sah Village- Shiv Narayanpur Ps- Shiv Narayanpur Dist- Bhagalpur
 2. Arun Kumar Sah son of Prithavi Chandra Sah Village- Shiv Narayanpur Ps- Shiv Narayanpur Dist- Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Raj Kumari Devi wife of Rajendra Prasad Village- Brahmchari Ps- Kahalgaon Dist- Bhagalpur

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Vikram Singh, Advocate
For the Opposite Party/s	:	Mr.Dilip Kumar No. 1, APP
For the O.P.No. 2	:	Mr. Mukesh Kant, Advocate
		Mr. Ashish Anand, Advocate
		Mr. Manish Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 13-09-2024 Heard learned counsel for the petitioners, learned APP for the State and learned counsel appearing on behalf of the opposite party no. 2.

2. The petitioners apprehend their arrest in connection with Complaint Case No. 1103 of 2021 for the offences registered under Sections 406, and 420/34 of the Indian Penal Code.

3. Learned APP for the State submits that he has sought instruction from the Circle Officer, Jagdishpur in compliance of the order dated 05.09.2024. It is next submitted



that he has received instruction from the Circle Officer, Jagdishpur as contained in letter no. 3327 dated 13.09.2024.

4. Learned APP for the State submits that the Circle Officer, Jagdishpur in his report has not disputed the fact that the land in question is not in existence rather has stated that the petitioner no. 1 had purchased land in question from Vijay Kumar Singh, son of the khatiyani raiyat, Phoolchand vide sale deed no. 11049 dated 29.09.2016, further the petitioner no. 1 after purchasing the land did not get the land mutated in his name but sold the land to the opposite party no. 2 by sale deed no. 6437 dated 08.07.2017.

5. Learned APP for the State submits that as far as the contention of the learned counsel appearing on behalf of the opposite party no. 2 is that the land in question does not exist gets refuted by the report of the Circle Officer, Jagdishpur as contained in his letter no. 3327 dated 13.09.2024. It is further submitted that the Circle Officer, Jagdishpur in his report has also recorded that the land in question is an agricultural land and he had talked with the husband of the opposite party no. 2 namely, Raj Kumar Prasad who said he will come to Jagdishpur within a week and thereafter the Circle Officer will personally go on the land to hold spot inspection and thereafter, the report



shall be made available to the Court.

6. Learned Counsel appearing on behalf of the petitioners submits that the petitioner no. 1 right from the beginning had taken a stand that he is not the original owner of the land in question rather he had purchased the land from the son of the original *khatiyani* holder and thereafter, he sold the land to the opposite party no. 2 and the opposite party no. 2 even got the land mutated in her name but now is raising a plea that the land in question does not exist.

7. Learned counsel appearing on behalf of the opposite party no. 2 submits that he still maintains his stand that the land in question does not exist. It is also submitted that the opposite party no. 2 never filed any application seeking mutation of the land in question as such, opposite party no. 2 is not aware that on what basis the land was mutated in her name. It is thus submitted that it appears that someone is pulling the curtains from behind and without the knowledge of the opposite party no. 2 got the land mutated in her name for creating evidence that the land is in existence and opposite party no. 2 is in possession. It is also submitted that the name of the husband of the opposite party no. 2 is Rajendra Prasad and not Raj Kumar Prasad as disclosed by the Circle Officer in his letter



dated 13.09.2024.

8. At this stage, learned counsel appearing on behalf of the petitioners submits that it may be possibility that both the petitioners and the opposite party no. 2 have been cheated. It is submitted that the petitioners though had purchased the land in question from the son of Fhoolchand but then he never came in possession over the land, it is also submitted that since the petitioners did not get possession over the land as such, they did not apply for mutation and sold the land to the opposite party no. 2. It is next submitted that since the land now has been sold to the opposite party no. 2 as such, the opposite party no. 2 should get the land measured and in the event if it is found that someone is in possession over the land in that event the opposite party no. 2 shall take steps to ensure that the person in possession is evicted from the land in accordance with law.

9. Learned counsel appearing on behalf of the opposite party no. 2 submits that the submissions made by the learned counsel for the petitioners manifestly demonstrate that opposite party no. 2 has been cheated and the petitioners without having possession over the land sold the same, as such, the opposite party no. 2 has not got possession from 2017 till date but then submits that his stand that the land does not exist



is still maintained.

10. The Court completely fails to appreciate the conduct of the petitioners and is of the *prima facie* view that the petitioners have cheated the opposite party no. 2 and they are trying to seek anticipatory bail on the ground that the dispute involved is civil to which a criminal colour has been given.

11. Considering the submissions made by the parties, the anticipatory bail application of the petitioners stands rejected.

(Satyavrat Verma, J)

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