

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.783 of 2023

Arising Out of PS. Case No.- Year-0 Thana- District- Vaishali

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Bhola Bhagat, Son Of Late Saukhee Bhagat, R/O Village And P.O.- Fatehpur
Phulbaria, Tolla Mansingh, P.S.- Sarai, District- Vaishali

... .. Petitioner/S

Versus

Suresh Singh, Son Of Late Ramsograth Singh, R/O Village and P.O.-
Fatehpur Phulbaria Tolla Mansingh, P.S.- Sarai, District- Vaishali

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.S.N.P. Singh, Sr. Advocate Mr.S.P. Singh, Advocate Mr.Kumar Sameer, Advocate
For the Respondent/s	:	Mr.Santosh Kumar, APP Mr.Anand Kumar Tiwari, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

9 28-04-2025 The instant criminal revision is directed against an order passed by the Executive Magistrate, Mahua, Vaishali in Case No. 283 of 2007 registered upon an application under Section 145 of the Cr.P.C. by the opposite party of the instant revision.

2. At the outset, it is necessary for the purpose of adjudication of the instant revision to state the background of this case.

3. One Rambriksha Singh was owner of a piece and parcel of land, measuring about 8 decimals by virtue of partition amongst his co-sharers on the death of his father, namely, Jodhan Singh. On or about 15th of October, 1988, Rambriksha



Singh executed an unregistered agreement for sale in favour of the opposite party herein. Subsequently, however, by executing a deed of gift, the said Rambriksha Singh transferred the entire 8 decimals of land in favour of his only daughter, namely, Krishna Devi, on 18th of October, 1990. Thereafter, on 25th of August, 1994, the said Krishna Devi transferred 5 decimals of land out of the said 8 decimals of land in favour of the present petitioner by executing a registered deed of sale. Parallely, the opposite party herein filed a suit against Krishna Devi for specific performance of agreement for sale before the Court of original jurisdiction. The said suit was dismissed on contest. The opposite party preferred an appeal against the judgement and decree of dismissal of the said suit bearing Title Appeal No. 14 of 1994. The said appeal was disposed of on the basis of a compromise arrived at between Suresh Singh and Krishna Devi and by virtue of the said compromise decree passed in Title Appeal No. 14 of 1994, Suresh Singh claimed possession over the 8 decimals of land.

4. The impugned proceeding under Section 145 of the Cr.P.C. was filed by Suresh Singh when dispute cropped up between Bhagat Singh and Suresh Singh over the possession of the land in question. The learned Executive Magistrate passed



an order declaring possession of the opposite party over the land in question and the present petitioner was directed not to disturb the possession of the opposite party over the disputed land in any way.

5. Being aggrieved, the opposite party of the proceeding under Section 145 of the Cr.P.C. has approached this Court challenging the correctness, legality and propriety of the impugned order.

6. I have heard the learned Senior counsel on behalf of the of the petitioner and the learned Advocate on behalf of the opposite party.

7. It is needless to say that an agreement for sale does not create any title over the property. Admittedly, after execution of sale in the year 1988, Rambriksha Singh, being the original owner, transferred the property in favour of his daughter by executing a registered deed of gift on 18th of October, 1990. Therefore, by way of transfer of property in favour of daughter, the original owner of the property by implication repudiated the agreement for sale. It is a matter of record that after being the owner of the disputed property by virtue of a deed of gift, Krishna Devi sold out the 5 decimals of land in favour of the petitioner by a registered deed of sale. Krishan Devi had no



right, title and interest over 5 decimals of land w.e.f. 25th of August, 1994, on which date she executed a registered deed of sale in favour of the petitioner herein.

8. Accordingly, Krishna Devi had no right, title and interest over the disputed property to execute a compromise in Title Appeal No. 14 of 1994 filed by the opposite party herein when she had no right, title and interest over entire 8 decimals of land. She could have executed a compromise with the opposite party in respect of remaining 3 decimals of land at best because a person cannot transfer more than what he/she possesses, having title over the same.

9. The learned Executive Magistrate failed to consider the aforesaid facts and circumstances on the basis of the deeds and documents executed by the parties. Therefore, the impugned order passed by the learned Executive Magistrate, Mahua, Vaishali in Case No. 283 of 2007 cannot sustain.

10. The impugned order is modified directing that the petitioner is entitled to possess 5 decimals of land and remaining 3 decimals of land may be under the possession of the opposite party.

11. This order is of course subject to any final decision passed by a Civil Court of a competent jurisdiction.



12. With the above order, the instant revision is
disposed of.

(Bibek Chaudhuri, J)

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