

(2000) 03 PAT CK 0135

Patna High Court

Case No: C.R. No. 1522/99

Smt. Urmila Devi and Another

APPELLANT

Vs

Ajit Kumar Rai and Others

RESPONDENT

Date of Decision: March 8, 2000

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 340
- Transfer of Property Act, 1882 - Section 83

Citation: (2000) 3 PLJR 112

Hon'ble Judges: S.N. Pathak, J

Bench: Single Bench

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

S.N. Pathak, J.

This revision is directed against the order dated 20.3.99 whereby the petition of the revisionists to draw up a contempt proceeding against Ajit Kumar Rai and some other persons who were mortgagee from the vendor of the revisionists was rejected. The relevant facts are that the revisionists purchased certain lands over which there was mortgage and some of the opposite parties of this revision were the mortgagee. A Miscellaneous case was filed u/s 83 of the TP. Act after the revisionists purchased the land from concerned bank and they deposited the mortgaged money in court. The mortgaged money was withdrawn by the mortgagee and they entered into a compromise as a result of which, delivery of possession of the land under mortgage was effected. However, the mortgagees filed a petition in the court making an endorsement that they were submitting the two mortgaged deeds. However, only one mortgaged deed was filed and the other was not filed. Hence, the petition was filed by the revisionists to draw up a contempt proceeding against the opposite parties for making a false statement in court. One

lawyer namely, Dhirendra Kumar was also noticed and he was discharged by the lower court on the ground that his signature did not appear on the petition for vouchsafing for the filing of the concerned documents.

2. The learned lower court discharged the concerned advocate on the ground of his plea that he had not put his signature on the concerned petition. But, however, the learned lower court failed to proceed against the concerned mortgagees who had made a false statement regarding filing of the mortgage deeds. The learned lower court directed the revisionists to proceed under Order 34 C.P.C.

3. I think the learned lower court misdirected himself by directing the revisionists to proceed under Order 34 of the C.P.C. This order was not at all relevant in the Misc. case which was registered for proceeding against the opposite parties for contempt of court. When there was written statement in court regarding the filing of the mortgaged deed which transpired to be false, it was the bounden duty of the court to enquire into the matter and proceed against the concerned person for making false statement in a court of law. The learned lower court has failed to exercise its jurisdiction in passing the impugned order.

4. In the result, the revision application is allowed and the impugned order is set aside. The lower court is directed to pass a fresh order taking into consideration all the facts and circumstances and, if necessary, he may file a complaint case against the concerned person after holding an enquiry u/s 340 of the Criminal Procedure Code.