

(2016) 07 PAT CK 0083

PATNA HIGH COURT

Case No: Criminal Miscellaneous No. 31603 of 2015 Arising Out of P.S. Case No. 349 Year - 2014, Thana - Danapur, District-Patna

Ajit Kumar Singh

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision: July 15, 2016

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Land Acquisition Act, 1894 - Section 11

Citation: (2016) 3 BBCJ 520 : (2016) 4 BLJud 306 : (2016) 4 PLJR 185

Hon'ble Judges: Mr. Ashwani Kumar Singh, J.

Bench: Single Bench

Advocate: Mr. Akhileshwar Prasad Singh, Senior Advocate and Mr. Prabhu Narayan Sharma, Advocate, for the Petitioners; Mr. Bishwajeet Kumar Mishra, Advocate, for the Opposite Parties; Mr. Jharkhandi Upadhyay, APP, for the State

Final Decision: Allowed

Judgement

Mr. Ashwani Kumar Singh, J. (Oral)—Heard Mr. Akhileshwar Prasad Singh, learned senior counsel appearing for the petitioner, Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutor for the State and Mr. Ashutosh Tripathi, learned counsel for the opposite party no. 2.

2. In the present application preferred under Section 482 of the Code of Criminal Procedure, the petitioner has sought for quashing of the order dated 22.6.2015 passed by the learned Additional Chief Judicial Magistrate, Danapur in Danapur P.S. Case No. 349 of 2014 by which a direction has been issued to the Land Acquisition Officer, Patna not to make payment of balance compensation amount to the petitioner with respect to the land acquired from him.

3. The short facts of the case are that the opposite party no. 2 filed a petition of complaint in the court of Additional Chief Judicial Magistrate, Danapur, on 11th July,

2014 alleging therein that the opposite party no. 2 was originally resident of village Akbari, P.S.-Sahar in the district of Bhojpur and his maternal house was at village Bihta, P.S.-Bihta in the district of Patna. The name of his maternal grandfather was Kapildeo Singh, who has only one daughter Ram Jyoti Devi (mother of complainant opposite party no. 2). It is said that the maternal grandfather of the complainant were three brothers, namely, Kapildeo Singh, Nandlal Singh and Raghunandan Singh. All the three brothers were allotted land after partition. After the death of maternal grandfather of the complainant opposite party no. 2, his mother Ram Jyoti Devi and maternal grandmother Ram Sakhi Devi got equal share.

4. According to the complainant opposite party no. 2, her maternal grandmother executed a registered deed of gift in favour of the petitioner with respect to Khata No. 465, Plot No. 1190 measuring an area of 29❖ decimal. Thereafter, a land dispute case is said to have been initiated between opposite party no. 2 and father of the petitioner, namely, Sheo Prasad Singh and others before the Deputy Collector, Land Reforms, Danapur vide case no. 142 of 2012. It is alleged that during hearing of the said case, the father of the petitioner deposited registered deed of correction no. 6571 and 6572 dated 20.9.1991 in which executor's name has been mentioned as Most. Ram Sakhi Devi, maternal grandmother of opposite party no. 2. It is alleged that the name of the vendee mentioned in the deed of correction was Sheo Kumari Devi wife of Sheo Prasad Singh. In the deed of correction no. 6572 name of the vendee was mentioned as Ajit Kumar Singh. In the said correction deed Khesra No. 1190 has been mentioned in place of 1190. It is alleged that the name of the identifier was wrongly mentioned in the correction deed and the name of opposite party no. 2 and his signature was also wrong. The signature of opposite party no. 2 has been forged in correction deed no. 6572 and correction deed no. 6572 is a forged document. The three accused persons, namely, Ajit Kumar Singh, Kaushal Kishore Singh and Sahabuddin are alleged to have hatched up a conspiracy and created the forged document in order to grab the property of opposite party no. 2.

5. It is submitted by Mr. Akhileshwar Prasad Singh, learned senior counsel for the petitioner that while investigation was going on an application was filed by opposite party no. 2 in the court of Additional Chief Judicial Magistrate, Danapur, praying therein to direct the Land Acquisition Officer not to make payment of balance of 20% compensation to the petitioner in respect of the land acquired by the State in a land acquisition proceeding. It is contended that on the basis of application filed on behalf of opposite party no. 2, the learned Additional Chief Judicial Magistrate, Danapur vide impugned order dated 22.6.2015 directed the Land Acquisition Officer not to make payment of balance compensation to the petitioner with respect to the land acquired from the petitioner. It is submitted that the prosecution launched by opposite party no. 2 is based on complete lie. There is no material to support that the petitioner had created a forged document in order to grab the land of opposite party no. 2. At no stage any objection was raised by opposite party no. 2 even before

the Land Acquisition Officer when proceeding was initiated in respect of the land in question. It is submitted that the aforesaid order was passed without giving any opportunity of hearing to the petitioner. It has been urged that a criminal court has got no power to adjudicate the nature of dispute raised by the opposite party no. 2.

6. Per contra, learned counsel for opposite party no. 2 has opposed the application of the petitioner. He has submitted that the petitioner has received 80% compensation from the Land Acquisition Officer in respect of a property over which he has got no valid right or title. The claim of the petitioner is based on a forged document and, thus, the learned Magistrate has rightly passed the order impugned and no illegality can be found with the order passed by the learned Magistrate.

7. I have heard respective counsel for the parties and perused the record. In my considered opinion, a criminal court has got no jurisdiction to pass any order directing the State not to make statutory payment of compensation amount in a land acquisition proceeding to a party. The right, title and possession in respect of a property is beyond the jurisdiction of a criminal court and it can only be decided by a proper civil court. To that extent, the order impugned cannot be sustained.

8. However, it is made clear that I have not given any opinion on the merit of complaint made by the petitioner on the basis of which an FIR has been instituted. The act of forgery is a totally different aspect, which can be considered by the criminal court in accordance with law.

9. In view of the discussions made above, the impugned order dated 22.6.2015 passed by the learned Additional Chief Judicial Magistrate, Danapur in Danapur P.S. Case No. 349 of 2014, is hereby quashed. The application stands allowed.