
(2001) 10 JH CK 0006

In the Jharkhand High Court

Case No : Appeal from Original Order No. 1 of 1999 (R)

Pratibha Singh and Another

APPELLANT

Vs

Shanti Devi Prasad and Another

RESPONDENT

Date of Decision : 08-10-2001

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 43 Rule 1
Criminal Procedure Code, 1973 (CrPC) — Section 195(1)
Penal Code, 1860 (IPC) — Section 191, 192, 193, 209, 378

Citation : (2002) 50 BLJR 111

Hon'ble Judges : Gurusharan Sharma, J

Bench : Single Bench

Advocate : P.K. Sinha and V.P. Singh, for the Appellant; N.K. Prasad and Manjul Prasad, for the Respondent

Final Decision : Dismissed

Judgement

Grusharan Sharma, J.—This appeal has been tiled under Order XLIII, Rule 1(i) of the CPC and is directed against the order dated 23.12.1998, passed by Seventh Subordinate Judge. Ranchi. in Misc. Case No. 26 of 1998. arising out of Execution Case No. 1 of 1983A, whereby the said Misc. case was dismissed as not maintainable.

2. Execution Case No. 1 of 1983A was filed to execute a decree for specific performance of agreement for sale passed in Title Suit No. 125 of 1981. Decree holder deposited the balance amount of consideration and filed draft sale deed, which was approved. The approved draft deed was typed on stamp paper and filed in Court, which was sent to registration office and on 23.12.1998 the Court executed the sale deed. Judgment debtors in their petition filed on 14.12.1998 purporting to be under Sections 340 read with Section 195(1)(i) of the Code of Criminal Procedure and Sections 191, 192, 193, 209, 378, 466, 470 and 471 of the Indian Penal Code made prayer to make a preliminary enquiry and record finding that offence under the aforesaid sections of the Indian Penal Code was

committed and file complaint thereof. A prayer was also made not to use forged document of execution petition and the sale deed typed on stamp paper and non-existent sketch map, which was got approved fraudulently, till the matter of forgery and fraud was finally decided. Further prayer was made to initiate a proceeding for contempt of Court against the decree holders.

3. The executing Court found that in their petition dated 6.11.1998 also the judgment debtors had made the same prayer, which was rejected by detailed order dated 13.11.1998. Only the prayer portion has been suitably changed for the purpose of getting it registered as a Misc. case. The executing court, therefore, observed that no further order is required to be passed in the Misc. case, which was covered by its earlier order dated 13.11.1998.

4. In my view, the executing court rightly rejected the Misc. Case No. 26 of 1998. There was no occasion for filing complaint for initiating a criminal proceeding against the decree holders. In the opinion of the executing court no forgery was committed by the decree holders. There was also no occasion for starting any proceeding for committing contempt of any order of the executing court by the decree holders.

5. I find no reason to interfere, with the impugned order dated 23.12.1998. There is no merit in this appeal. It is, accordingly, dismissed, but without costs. Interim order dated 23.10.2000 passed by this Court stands vacated.

6. Appeal accordingly dismissed.