

**HIGH COURT OF TRIPURA
AGARTALA**

CRP No.17/2023

1. Smti. Mallika Debnath

2. Sri Nikunja Debnath

..... Petitioner(s).

V E R S U S

Sri Chandan Debnath

.....Respondent(s).

For Petitioner(s) : Mr. A. Acharjee, Advocate,
Mr. Rahul Acharjee, Advocate.

For Respondent(s) : None.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

12/05/2023

Petitioners, the defendants in Title Suit No.18 of 2015, are aggrieved by the order dated 17.03.2023 passed by learned Civil Judge (Sr. Division), Court No.1, Gomati District, Udaipur whereby the learned Court has requested the learned Chief Judicial Magistrate, Gomati District, Udaipur to send the original report of handwriting expert filed by SFSL, Narsingarh, Agartala and the original report of thumb impression expert filed by the office of the S.P., CID, Government of Tripura, Agartala, West Tripura in connection with PRC(WP) 14 of 2018 for comparing the same with the certified copies.

2. The operative part of the impugned directions are quoted hereunder:

"After hearing both sides and considering the facts that the application is lying for a long period without disposal, and also finding that it is prudently required for comparing and verification of the certified copies of signatures and thumb impressions of Chandan Debnath filed in the suit with that of the original report filed before Learned Court of CJM, Gomati, Udaipur in PRC (WP) 14 of 2018, as well as, finding force and merit in the submission of the learned counsel for the plaintiff and also in view of the direction and order of the Learned Appellate Court i.e., Learned District Judge, Gomati, Udaipur and for fair ends of justice in the suit, the application filed by the plaintiff side dated 21.12.2020 for calling of the original reports of the thumb impression and hand writing experts filed in PRC(WP) 14 of 2018 is hereby allowed.

Learned Court of CJM, Gomati Udaipur is hereby requested to send the original report of hand writing expert filed by SFSL, Narshingarh, Agartala and original report of the thumb impression expert filed by the office of the SP, CID Govt. of Tripura, Agartala, West Tripura filed in PRC(WP) 14 of 2018 before this Court for comparing the same with the certified copies submitted before this Court in the suit by next date fixed.

Office is also hereby directed to supply a copy of this order before the learned court of CJM, Gomati, Udaipur for information and doing the needful in this respect.

Fix 04.04.2023 for production of original reports of hand writing expert of SFSL and thumb impression of SP CID in c/w PRC(WP) 14 of 2018/hearing and order."

3. Petitioners are aggrieved as the learned trial Court has not confined itself to the direction issued by the learned appellate Court of District Judge, Gomati District, Udaipur as by judgment dated 13.11.2019 passed in Title Appeal No.23 of 2017 learned District Judge has set aside the judgment dated 13.07.2017 and decree dated 26.07.2017 passed by the learned Civil Judge (Sr. Division), Gomati District, Udaipur in Title Suit No.18 of 2015 with a limited remand to send the questioned sale deed No.1-1521 dated 19.07.2008 along with the specimen signatures of the plaintiff Chandan Debnath to the State FSL, Agartala for examination by handwriting expert to ascertain whether the signatures of Chandan Debnath in the questioned sale deed are the handwriting of him. Thereafter, the suit will be decided according to law after hearing both the sides and leading further evidence if so required. The operative part of the judgment of the learned appellate Court is also quoted hereunder:

"26. In the result, the appeal is allowed.

The judgment dated 13.07.2017 and decree dated 26.07.2017 passed by the learned Civil Judge (Sr. Division), Gomati District, Udaipur in Title Suit No.18 of 2015 are hereby set aside.

27. The case is remanded to the trial court with direction to send the questioned sale deed No.1-1521 dated 19.07.2008 along with the specimen signatures of the plaintiff Chandan Debnath to the State FSL, Agartala for examination by handwriting expert to ascertain whether the signatures of Chandan Debnath in the questioned sale deed are the handwriting of him. Thereafter, the suit will be decided according to law after hearing both sides and leading further evidence if so required.

The appeal is disposed of on contest.

The judgment is delivered in the open court.

Prepare decree accordingly.

Send back the LCR along with a copy of this judgment."

4. Learned counsel for the petitioners submits that the learned trial Court ought not to have asked for the original report of handwriting expert filed by the SFSL, Narsingarh, Agartala and the original report of the thumb impression expert filed by the office of the S.P., CID, Government of Tripura, Agartala, West Tripura filed in PRC(WP) 14 of 2018 before the learned Court of Chief Judicial Magistrate, Gomati District, Udaipur in connection with PRC(WP) 14 of 2018 where the defendant/petitioners were acquitted of the charges under Sections 468/471/34 of the IPC(Annexure-E) by giving benefit of doubt. The said criminal case was instituted on the FIR lodged by the informant/plaintiff Chandan Debnath, respondent herein, with

the allegation that the accused Nikunja Debnath and Smt. Mallika Debnath along with the FIR named accused persons Jagadish Debnath (deceased) and Sukumar Debnath (deceased) by forging signature of the informant by impersonation had created a forged sale deed being No.1-1521 dated 19.07.2008.

5. Learned counsel for the petitioners submits that the learned trial Court has committed error of jurisdiction in going beyond the order of limited remand passed by the learned appellate Court and proceeded to summon documents from the Court of learned Chief Judicial Magistrate, Gomati District, Udaipur in connection with a criminal case instituted against the same defendants in relation to the same sale deed. Therefore, the impugned order may be set aside.

6. I have considered the submission of learned counsel for the petitioners and taken note of the relevant materials placed on the record and also the judgment of the learned appellate Court of District Judge, Gomati Judicial District, Udaipur. I have also gone through the impugned order dated 17.03.2023.

7. To my mind, the direction of the learned trial Court for summoning the original report of handwriting expert filed by the SFSL,

Narsingarh, Agartala and original report of thumb impression expert filed by the office of the S.P., CID, Government of Tripura, Agartala, West Tripura from the Court of learned Chief Judicial Magistrate, Gomati Judicial District, Udaipur in connection with PRC(WP) 14 of 2018 for comparing the same with the certified copies submitted before the learned trial Court of the questioned sale deed does not seem to be an error in jurisdiction as it is the very subject matter which was subject to inquiry and evidence on limited remand by the learned appellate Court. Summoning of these two documents, in my opinion, does not lead to the conclusion that the trial Court is not obliged to send the questioned sale deed No.1-1521 dated 19.07.2008 along with the specimen signatures of plaintiff Chandan Debnath to the State FSL, Agartala for examination by handwriting expert to ascertain whether the signatures of Chandan Debnath in the questioned sale deed are the handwriting of him. The learned appellate Court had also observed while remanding the matter that thereafter the suit will be decided according to law and after hearing both the sides and leading further evidence, if so required.

8. In view of the observations made hereinabove, this Court is not inclined to interfere in the impugned order. The revision petition is accordingly dismissed, however, with the observation that the learned trial

Court would abide by the directions of the learned appellate Court on the issue of sending the questioned sale deed No.1-1521 dated 19.07.2008 along with the specimen signatures of the plaintiff Chandan Debnath to the State FSL for expert opinion.

Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH), CJ

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