

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5675 of 2015

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Budhdeo Shukla, Son of Late Radha Raman Shukla, Resident of village-
Ashopur, P.S- Danapur, District- Patna.

.... Petitioner/s

Versus

1. Dharmendra Kumar, son of Sri Ram Kumar, resident of Shekhpura, P.S-
Shastri Nagar, Distric- Patna.
2. Shakuntala Devi @ Leelawati Devi wife of Radha Raman Shukla,
Resident of village- Ashopur, P.S- Danapur, District- Patna.
3. Vishwajeet Pal son of Late Jawahar Prasad Pal.
4. Uday Kumar son of Sri Mahendra Prasad.
5. Dinesh Kumar son of Late Babunand Rai. Respondent no. 3 to 5
residents of village- Ashopur, P.S- Danapur, District- Patna.
6. Jai Prakash Sharma son of Late Nakhida Prasad Sharma, resident of
village Bhagwatipur, P.S Shahpur, District Patna.
7. Vinod Kumar son of Ambika Prasad, resident of village Saguna, P.S
Danapur, District Patna.
8. Chandrashekhar Singh son of Ram Ayodhya Singh, resident of Adarsh
Colony, West Patel Nagar, P.S Shastri Nagar, District Patna.
9. Fasi Ahmad son of Late Suni Ahmad, resident of Samanpura, P.O B.V
College, P.S Shastri Nagar, District Patna.
10. Abhishek Sahai son of Vedpurari Sahai, resident of West Boring Canal
Road, P.S.- S.K Puri, District- Patna.
11. Jitendra Kumar son of Sri Ramesh Singh, resident of New Mainpura,
village Saguna, P.O & P.S Danapur, District Patna.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Pankaj Kumar, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL ORDER

3 18-08-2015

Heard Mr. S.S. Dwivedi, the learned senior counsel for the petitioner and Mr. P.N. Shahi, the learned senior counsel for the respondents.

The order dated 28.01.2015 passed by Sub Judge-3rd Danapur in T.S. No. 111 of 2010 is under challenge in this application under Article 227 of the Constitution of India. By this order, the court below has refused the prayer of the defendant-petitioner for sending the disputed document and granting opportunity to get it examined by a handwriting expert/CFSL Hyderabad.

The suit was filed by the plaintiff wherein he claimed to have paid the certain amount to the defendant no. 1 in support of that the plaintiff has produced the receipt. The defendant no. 1 has questioned the authenticity of the said receipt including his signature appearing thereupon, and his earlier prayer to get the same examined by handwriting expert was allowed by order dated 15.11.2014. The plaintiff was also given opportunity to get the same examined by expert. The defendant no. 1 failed to get the handwriting appearing upon the disputed document examined by expert within the time and made fresh prayer for taking the same. By order dated 23.12.2014, the learned court below, after imposing the cost, granted the opportunity to the defendant no. 1



get the handwriting/signature disputed document examined by the expert. Thereafter, the defendant no. 1 has come out with the case that he approached the CFSL (Central Forensic Science Laboratory) Hyderabad after obtaining the photo stat copy of the disputed document and the said laboratory, however, expressed his inability to give its expert opinion on the basis of the photo copies. In this backdrop, the defendant no. 1 has approached the learned court below with prayer for direction to send the original document to the CFSL Hyderabad and in support of the same, a letter issued by the said laboratory was also produced. By the impugned order, the learned court below has declined the said prayer after hearing the parties.

Considering the submissions and the facts and circumstances of the case, it is limpid that the disputed receipt is crucial document for determination of the issues arising between the parties in the suit. However, the delay caused by the defendant no. 1 in obtaining the expert report even after the opportunity granted by the court below in that regard cannot be ignored. The learned court below, in the impugned order, has also taken into notice the facts including the earlier orders and directions in this regard. However, in view of the importance of the disputed document for determination of the rights and liabilities of the

parties in the suit, this Court thinks it just and proper to grant an opportunity to the petitioner to get the same examined by the expert within a time frame after paying cost to the other side.

Accordingly, this writ application is allowed. The impugned order is set aside and the opportunity by way of last indulgence is granted to the petitioner to get the disputed receipt examined by the expert in accordance with law/rules within a period of six weeks which shall run from the date fixed in the suit next after the date of receipt or production of this order by either parties. This order will be subject to payment of cost of Rs. 10,000/- by the petitioner to the plaintiff-respondents.

Accordingly the petition dated 22.01.2015 is allowed and the learned court below is directed to send the disputed documents to the laboratory/authority as prayed without delay at the cost of the petitioner. The payment of cost to the plaintiff-respondent as above-directed shall be a condition precedent for any action by the court in pursuance to this order.

It is made clear that no further opportunity shall be granted to the defendant no. 1-petitioner in this regard and if he fails to produce the expert opinion on the disputed receipt, the court shall proceed in accordance with law for expeditious disposal of the suit.

The writ application is accordingly disposed of with
the aforesaid observations and directions.

Devendra/-

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(V. Nath, J)

