

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20258 of 2014

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Raj Kumari Devi W/O- Aami Lal Singh, resident of village- Jhitkiyan, P.O.-
Madarna, P.S. and District- Vaishali

.... Petitioner/s

Versus

1. Dharamdev Singh S/o Late Harihar Singh, Resident of village-
Jhitkiyan, P.O.- Madarna, P.S. AND District- Vaishali
2. Dhaneshwari Devi @ Nanhki Devi D/O- Late Kewal Singh, W/O-
Kapildeo Singh, resident of village- Bibipur, District- Vaisali
3. Jitni Devi, D/o late Kewal Singh, W/o Dilip Singh resident of village-
Balour, P.O. Kudhani District-Muzaffarpur.
4. Vyas Singh.
5. Rampukar Singh.
6. Tuntun Singh.
7. Viresh Singh.
8. Rampa Devi.
9. Lalita Devi, all are sons and daughter of late Vikash Singh.
10. Most. Panvatia Devi wife of Vikash Singh, all are residents of village-
Jhitkiya, P.S. Madarna, District-Vaishali.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Chandra
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

3 27-07-2015 Heard the learned counsel for the petitioner.

Calling in question the order date 11.07.2014 passed by the
learned court below allowing the prayer of the plaintiff respondent
no. 1 to mark some documents as exhibit in the suit, the present
application under Article 227 of the Constitution of India has been

filed.

The suit has been filed by the plaintiff-respondent no. 1 for specific performance of contract against the defendant no. 1. The present petitioner is subsequent purchaser of the suit property and has been impleaded as defendant no. 6 in the suit. On behalf of the plaintiffs, three petitions were filed praying therein to mark as exhibit the certified copy of the recent survey khatiyani which was on record filed on behalf of the defendants but was not marked as exhibit on their behalf. The further prayer of the plaintiff was to mark as exhibits the photo copy of the acknowledgment receipt and postal receipt with regard to which the prayer of the plaintiff to lead secondary evidence has already been allowed by the court by order 28.08.2004. After hearing the parties, the court has allowed the prayer of the plaintiff and marked the certified copy of the recent survey khatiyani of khata no. 87 and the photo copies of the acknowledgement receipt and postal receipt as exhibits in the suit.

The learned counsel for the petitioner has submitted that the learned court below has committed error of jurisdiction in allowing the document (certified copy of the recent survey khatiyani) filed on behalf of the defendants to be marked as exhibit on behalf of the plaintiff. It has been further submitted that the photo copies of the documents cannot be accepted in evidence.



After perusal of the impugned order and considering the submissions, it is manifest that the certified copy of the recent survey khatian has been filed on behalf of the defendants but they have not chosen to get the same marked as exhibit on their behalf. It has not been denied on behalf of the petitioner that the said certified copy of the recent survey khatian is a public document. In the writ application as well as during the course of submission nothing could be pointed out on behalf of the petitioner as to how any prejudice would be caused to the petitioner if the said certified copy of the recent survey khatian is marked as exhibit on behalf of the plaintiff. From the impugned order, it further appears that by the earlier order dated 28.08.2004 the plaintiff's prayer to lead secondary evidence with regard to the acknowledgement receipt and postal receipt has already been allowed. In this view of the matter, there does not appear to be any substance in the submission on behalf of the petitioner that the photo copies of the said document should not have been allowed to be marked as exhibit on behalf of the plaintiff.

It is now well settled that the power under Article 227 of the Constitution of India is intended to be used sparingly and only in appropriate cases for the purpose of keeping the sub-ordinate courts and tribunals within the bounds of their authorities and not

for correcting mere error. It has been observed by the Apex Court in the case of **Shalini Shyam Shetty Vs. Rajendra Shankar Patil 2010 (8) SCC 329** that “as a result of frequent interference by the Hon’ble High Court either under Article 226 or 227 of the Constitution with pending civil and at times criminal cases, the disposal of cases by civil and criminals courts gets further impeded and thus causing serious problem in the administration of justice.”

For the aforesaid reasons and discussions, this court does not find any reason to interfere with the impugned order. The writ application is, accordingly, dismissed.

(V. Nath, J)

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