

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11030 of 2013

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Nawal Kishore Prasad Singh

.... Petitioner/s

Versus

Yugeshwar Singh & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 26-11-2015 1. This application under Article 227 of the Constitution of India has been filed by the plaintiff petitioner against the order dated 19.02.2013 and 26.04.2013 passed by the learned Munsif, Sheikhpura in Title Suit No.3 of 2009 whereby the Court below rejected the application for comparison of the disputed signature of the plaintiff on the sale deed with his admitted signature and also the review application.

2. It appears that the plaintiff petitioner filed the aforesaid Title Suit No.3 of 2009 praying for a decree for declaration that the sale deed dated 24.12.1992 as void as it is forged and fraudulent and created by the defendant by impersonating the plaintiff petitioner. Contesting written statement was filed by the defendant. Thereafter, the application was filed by the plaintiff petitioner praying for comparison of the alleged signature of the plaintiff on the sale deed.



The Court below rejected the same on the ground that in a criminal case in anticipatory bail application the District Judge had observed that the signature appearing on the sale deed appears to be the signature of the plaintiff and had allowed the anticipatory bail application. The petitioner then filed C.W.J.C. No.5558 of 2011 which was simply withdrawn and then again same application was filed but the Court below by the impugned order dated 19.02.2013 rejected the said application. Again review was filed against the said order which was also rejected by order dated 26.04.2013.

3. The learned counsel for the petitioner submitted that the Court below has wrongly rejected the application filed by the plaintiff petitioner without considering the fact that the real controversy between the parties is whether the signature on the sale deed is of the plaintiff as claimed by the defendant or is not the signature of the plaintiff as claimed by the plaintiff but the Court below relying on the observation made by the District Judge in anticipatory bail application has rejected the same which is in fact a wrong approach to the case. According to the learned counsel, the observation and / order passed in anticipatory bail application is not at all admissible as evidence in the case and is not a proof of the fact that signature appearing on the sale deed is of the plaintiff.

4. On the other hand, the learned counsel for the respondent

submitted that the Court below has rightly rejected the application on the ground that the District Judge has observed that it is the signature of the plaintiff and, therefore, the Munsif had no jurisdiction to direct the comparison of the disputed signature on the sale deed.

5. Perused the order passed by the Court below. It appears that the reason assigned by the Court below for rejecting the application for comparison of the signature of the plaintiff on the alleged sale deed is not teneable. Merely because the District Judge has observed while granting anticipatory bail, the same cannot be the proof of the fact that the signature appearing on the sale deed is of the plaintiff. In my opinion, therefore, the Court below has acted in the manner not permitted by law causing grave injustice to the plaintiff. Accordingly, this writ application is allowed and the impugned orders are hereby set aside. The Court below is directed to send the disputed signature with admitted signature to the Government expert for comparison.

(Mungeshwar Sahoo, J)

Sanjeev/-

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