

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3552 of 2015

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Rabindra Rai @ Rabindra Nath Rai, son of Dukh Dewan Rai, resident of village- Jagdishpur, P.O. Khodaibagh, District- Chapra at present residing at village Mithepur, P.O & Police Station- Garkha, District- Saran (Chapra).

.... Petitioner

Versus

1. Parma Rai son of Lal Bihari Rai
2. Din Bandhu Rai Son of Lal Bihari Rai Both are residents of village Mithepur, P.O & Police Station- Garkha, District- Saran(Chapra)
3. Laloo Rai son of Rabindra Rai@ Rabindra Nath Rai
4. Ghanshyam Rai Son of Rabindra Rai@Rabindra Nath Rai
5. Ram Prakash Rai Son of Rabindra Rai@Rabindra Nath Rai
6. Ram Karan Rai son of Rabindra Rai@Raibindra Nath Rai
7. Sheo Bharan Rai Son of Rabindra Rai@Rabindra Nath Rai. 3 to 7 are resident of village - Jagdishpur, P.O Khodaibagh, District- Chapra, at present residing at Village mithepur, P.O. and Police Station - Garkha, District - Saran (Chapra).

.... Respondents

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Appearance:

For the Petitioner/s : Mr. Umesh Kumar Mishra

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO

ORAL ORDER

5 21-04-2016 Heard learned counsel, Mr. Umesh Kumar Mishra,

for the petitioner.

It appears that the Suit for partition was filed by the plaintiff-petitioner. The defendant filed written statement vide Paragraph 11, specifically stated about the execution of the gift deed of year 1996.

It appears that at the stage of argument, the application was filed by the plaintiff for comparison of the thumb impression/signature on the gift deed with the admitted thumb

impression/signature of the executant of the gift deed. The Court below rejected the said application on the ground that no relief has been claimed by the plaintiff with respect to the said gift deed and further in spite of the clear statement in the written statement in Paragraph-11 regarding the execution of the gift deed, no whisper was made by the plaintiff.

In view of the above factual position that there is clear recital about gift deed in the written statement and that the plaintiff has never prayed for relief with respect to the aforesaid gift deed, the order passed by the Court below cannot be interfered in exercise of supervisory jurisdiction. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J.)

Mishra/-

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