

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1449 of 2016

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1. Dharam Nath Singh son of late Suraj Singh.
 2. Vijay Singh, son of late Suraj Singh.
 3. Most. Saraswati Kunwar, wife of late Dwarika Singh, all are resident of village-Mahdalichak, Gopalpur, P.O. Gopalpur, P.S. Naya Gaon, District-Saran (Chapra).

.... Petitioner/s

Versus

1. Suresh Kumar Singh son of Ram Prasad Singh
2. Mithlesh Kumar Singh, son of Ram Prasad Singh, both are resident of village-Bhatoura, P.O. Gavandri, P.S. Tariyan, District-Saran (chapra)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Lal Babu Singh, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

4 14-09-2016

Heard learned counsel for the petitioners.

This application has been filed praying for extension of time granted by order dated 28.04.2015 passed in C.W.J.C. No. 714 of 2015 which was allowed by this Court imposing cost of Rs. 10,000/- upon the defendant-petitioners with direction that the said cost must be deposited within three weeks from today in the court below. The petitioners, however, approached the learned court below on 20.07.2015 for depositing the cost amount and by order dated 14.12.2015, the learned court below has directed the petitioners to approach this Court in the matter as the period for

depositing of the cost has already been expired.

From the order dated 28.04.2015, it transpires that this Court had taken into notice that the prayer for comparison of thumb impression in question in the suit by handwriting expert had been made by the defendant-petitioners after much delay revealing the intention to prolong the litigation. However, in the ends of justice, the prayer of the defendant-petitioners was allowed with aforesaid direction with regard to the cost. It further appears that even after passing of the order dated 14.12.2015 refusing to accept the prayer for depositing the cost by the learned court below, the present application has been filed on 13.04.2016 which further discloses the lack of promptness and urgency of the petitioners to pursue the matter.

However, in view of the fact that the thumb impression on the disputed Mahadnama is pivotal issue between the parties in the suit, this Court allows the prayer of the petitioners to deposit the amount of Rs. 10,000/- as directed earlier by order dated 28.04.2015 by Monday (19.09.2016) in the learned court below along with further cost amount of Rs. 1000/- to be deposited on the same date by the petitioners.

The learned court below is directed to proceed in the matter thereafter as earlier directed. If the aforesaid cost is not

deposited by Monday (19.09.2016), the plaintiffs shall be at liberty to make appropriate prayer before the learned court below.

The modification application is, accordingly, allowed to the extent as abovementioned.

Devendra/-

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(V. Nath, J)

