

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17676 of 2015

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Smt. Phulwaso Devi & Anr

.... Petitioner/s

Versus

Smt. Sharda Gupta & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Navin Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR

SAHOO

ORAL ORDER

3 26-04-2016

Heard the learned counsel, Mr. Navin Kumar for the petitioners and the learned counsel, Mr. Abinash Kumar for the respondents.

The Court below by order dated 31.08.2015 passed in Title Suit No.150 of 2003 by Sub Judge IV, Patna rejected the application filed by the petitioners to mark the original sale deed, rent receipts and certified copies of the mutation papers as exhibit in the suit at the stage of argument on the ground of delay only.

According to the learned counsel for the petitioners, since the plaintiff is challenging the sale deed, it is essential for just decision of the controversies between the parties. Therefore, the documents, which were available, as the same were filed earlier, were required to be marked but the Court below has rejected the same only on the ground of delay. According to the learned counsel, the petitioners will not adduce any further evidence if these documents are marked as exhibits.

On the other hand, the learned counsel for the respondents submitted that since 2013, the case is running for argument and the petitioner is taking time.

Perused the order passed by the Court below. It appears that the Court below has rejected the application considering the fact that the case is running since 2013 for argument. While disposing of the application, the Court below has not at all considered the relevancy of the documents. It is admitted fact that the plaintiff has challenged the original sale deed which is sought to be marked as an exhibit by the defendant. The rent receipts are also the original rent receipts as has been claimed by the petitioners and so far the mutation papers are concerned, those are all public documents being the certified copies of the mutation paper.

In my opinion, therefore, the Court below has erred in not allowing the application filed by the petitioners for exhibiting the documents and thereby has not exercised a jurisdiction vested in it by law.

Accordingly, this writ application is allowed, the impugned order is set aside. The application filed by the petitioners is thus, allowed and the court below is directed to mark the documents as exhibit and expedite the hearing of the suit.

Saurabh/-

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(Mungeshwar Sahoo, J)