

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6977 of 2013

IN

C.R. 894 of 2009

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Md. Ghyeyasuddin @ Md. Gyasuddin son of late Abdul Gafooruddin, resident of Mohalla Ekangersarai, P.O. & P.S. Ekangersarai, District Nalanda

.... Petitioner/s

Versus

1. Ramesh Chaudhary son of late Preman Chaudhary, resident of Mohalla Ekangersarai, P.S. & P.O. Ekangersarai, District Nalanda
2. The State of Bihar through District Collector, Nalanda, Biharsharif.
3. Bihar Rajya Sunni Wakf Board, Patna through its Secretary, Raj Bhawan, Harding Road, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bhupendra Narain Sinha &
Mr. Shailendra Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

ORAL JUDGMENT

Date: 11-02-2016

Challenge in the present writ application is an order passed by the learned trial court on 30.03.2009 whereby the application filed by the petitioner to take in evidence, a copy of the plaint was declined while an order passed by the court was admitted in evidence.

Argument of the learned counsel for the petitioner is that since the plaint bears signature of the Presiding Officer, therefore, as a public document, it is per se admissible in evidence. He refers to the judgment in the case of **Collector of Gorakhpur Vs. Ram Sundar Mal & Others, A.I.R. 1934 Privy Council 157.**

The plaint is not a public document which is per se admissible although the decree passed by a court is a public document. The judgment rendered in the case of Collector of Gorakhpur (Supra) is pertaining to a decree containing genealogical table in the decree is, thus, admissible in evidence. The said judgment thus does not support the argument raised.

In the present case, the decree stands admitted in evidence but it is the plaint which has not been admitted in evidence for the reason that it is not a public document. A certified copy of the plaint obtained from the records of the Court is required to be proved, by calling upon the witness from the court in whose custody the original document is kept. Plaint is a private document and is not per se admissible in evidence.

In that view of the matter, I do not find any merit in this petition under Article 227 of the Constitution of India. It is, accordingly, dismissed.

(Hemant Gupta, J)

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