

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12539 of 2014

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Bibi Rafiqun Nissa Wife of Md. Farooque Siddique Residing at Village AND P.O.-
Laxmipur, Via- Chakand, P.S. Belaganj, District- Gaya at present residing in
Mohalla- Millat Colony, Near Quasmi Middle School, Bari Road, in the House of
Professor Late Taiyyab Abdali, P.S- Lines, District- Gaya. (Bihar).

.... Petitioner/s

Versus

1. Md. Iftekhar Alam Son of Late Md. Moinuddin.
2. Md. Intekhab Alam Son o Late Md. Moinuddin Resident of Village AND P.O-
Laxmipur, Via Chakand, P.S- Belaganj, District- Gaya (Bihar).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Umesh Kumar Mishra, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 30-08-2016

Heard learned counsel for the petitioner.

By the impugned order, the learned court below has
allowed the prayer on behalf of the plaintiff for adducing the photo
copy of the sale deed by way of secondary evidence.

It was admitted fact by the petitioner that the original copy
of the document had been lost. In this backdrop, the matter was
covered by the provision under Section 65 of the Evidence Act and
the plaintiff was entitled to adduce the copy of said deed in evidence
by way of secondary evidence.

Learned counsel for the petitioner, however, has submitted

that the learned court below ought to have called for the records from the registry office before taking that document. This Court has not been persuaded that such impediment is envisaged under Section 65 of the Evidence Act. This Court, therefore, is not inclined to invoke the jurisdiction under Article 227 of the Constitution of India. The application is, accordingly, dismissed.

However, the petitioner shall have the liberty to take objections, if permissible in law, during the course of hearing of the suit.

(V. Nath, J)

Devendra/-

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