

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19242 of 2012

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SHANKAR JEE SINGH S/O LATE RAM BYAS SINGH R/O VILLAGE-
PANDAY PATTI, POLICE STATION- BUXAR MUFFASIL, DISTRICT-
BUXAR

.... PETITIONER/S

VERSUS

1. JAI SHANKAR PRASAD @ BILLU
 2. RAJ KUMAR @ DHANU
 3. OM PRAKASH
 4. PRADEEP KUMAR
- SL. NO.1 TO 4 ARE SONS OF PARAS KOERI, RESIDENT OF
VILLAGE-PANDEY PATTI, P.S.-BUXAR MUFASSIL, DISTRICT-
BUXAR.
5. MUNNI DEVI W/O RAS BIHARI SINGH R/O VILLAGE-
MAJRAHIA, P.S.- RAJPUR, DISTRICT-BUXAR
 6. PARAS KOERI S/O RAGHUNI KOERI R/O VILLAGE-PANDEY
PATTI, P.S.- PANDEY PATTI, DISTRICT- BUXAR.

.... RESPONDENT/S

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Appearance:

For the Petitioner/s	:	Mr. Anil Kumar Roy, Adv. Mr. Dharmendra Kumar, Adv.
For the Respondent/s	:	Mr. Abu Haidar, Adv. Mr. Chandra Mohan Singh, Adv. Mr. Md. Abu Shajor, Adv.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

6 19-01-2016 Supplementary affidavit has been filed on behalf of

petitioner, taken on record.

Heard learned counsel for the petitioner as well as

learned counsel for the respondents.

Petitioner who happens to be defendant second set

before the learned lower court relating to Title Suit No.294 of
2006 is aggrieved by an order dated 25.06.2012 passed by Sub-
judge, 2nd, Buxar in Title Suit No.294 of 2006 whereby and
whereunder the subsequent W.S. filed on behalf of Jai Shankar
Prasad @ Chillu Respondent no.1/defendant has been entertained.



By way of supplementary affidavit certain documents have been brought up on record. The relevant documents to be taken note of, the first Vakalatnama which is of dated 05.01.2007 (Annexure-8) having duly executed by Om Prakash, Jai Shankar Prasad, Pradeep Kumar and Raj Kumar (all the defendants) while the second Vakalatnama, Annexure-4 has been executed by the Jai Shankar Prasad alone and the same is dated 01.05.2007.

Contention on behalf of the petitioner is that he happens to be purchaser from Jai Shankar Prasad. At an earlier occasion, Jai Shankar Prasad had pleaded theme of previous partition and on the basis thereof, he claimed his competency to execute sale deed while by way of subsequent W.S., which the court entertained, he (Jai Shankar Prasad) had pleaded and supported the contention of the plaintiff. It has also been submitted that instant suit has been filed by the plaintiff for declaring the sale deed having in his favour as well as in favour of Munni Devi to be null and void and on account thereof, the conflicting version of Jai Shankar Prasad @ Chillu is going to adversely affect his interest. Furthermore, it has been submitted that forgery has been committed whereunder name of Jai Shankar Prasad has been inserted under Annexure-8, Vakalatnama of dated 05.01.2007, and in likewise manner his signature has been forged. Had there been his presence then there would not have disclosure in the order

dated 04.04.2007 that case be fixed on 01.05.2007 awaiting execution report relating to defendant nos.1,2 and 3. So submitted that it happens to be a glaring example of forgery having been committed in the record.

It has also been submitted that learned lower court was wrong in accepting the second W.S. to be the W.S. as is not supported by any of the provision of the CPC. So submitted the order impugned is fit to be set aside.

At the other end, the learned counsel representing the respondent nos.1,2,4 and 6 out of whom Jai Shankar Prasad @ Chillu is respondent no.1 has submitted that Jai Shankar Prasad had already appeared on 05.01.2007 and subsequent Vakalatnama is forged and fabricated one and in likewise manner the W.S.

This controversial issue is to be adjudicated upon by the learned lower court itself in case there happens to be a petition under Section 340 of the and the learned lower court, after concluding the inquiry will pass appropriate order in accordance with law irrespective of subsequent orders so prevailing.

With the aforesaid observation, instant petition is disposed of.

(Aditya Kumar Trivedi, J.)

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