

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22563 of 2012

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Mahendra Lal @ Mahendra Sao

.... Petitioner/s

Versus

Yogendra Kumar Singh & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bam Bahadur Jha

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

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14-07-2016

Heard learned counsel, Miss. Minakshi Kumari,

appearing on behalf of the petitioner and learned counsel, Mr.

Shailendra Kr. Sinha, appearing for respondent Nos. 1 and 2.

2. Perused the order dated 12.09.2012 passed by the Adhoc Additional District Judge-1st-cum-Fast Track Court, 1st, Patna in T.A. No. 83 of 2005.

3. It appears that partition suit was filed by the plaintiffs-respondents on the basis of the sale deed said to have executed by Rajpati Devi in their favour in the year, 1993. In the written statement, the defendants raised the ground that the sale deed executed by Rajpati Devi has been obtained fraudulently in collusion with the said Rajpati Devi. The trial court decreed the plaintiffs' suit. Thereafter the present T.A. No. 83 of 2005 was filed by the petitioners herein. Before the appellate court, an application was filed for expert opinion regarding the sale deed dated 03.09.1993 on the ground that in fact, it was not executed by

Rajpati Devi. By the impugned order, the court below found that the sale deed has been admitted by Rajpati Devi, who has been examined as P.W.-6 in the suit. She supported the case of the plaintiffs-respondents. In other words, she has not contested the suit. The court below also came to the conclusion that the case of the petitioner-appellant is that the sale deed dated 03.09.1993 has been brought into existence by respondent first set by bringing the respondent second set in collusion. On these grounds, the court below has rejected the application filed by the petitioner. Since the executant has herself admitted the execution and registration of the sale deed and the appellant-petitioner's case is that the sale deed was brought into existence in collusion with the executant of the sale deed, the court below has rightly observed that the execution of the sale deed by Rajpati Devi is admitted and, therefore, it is not necessary to be examined by the expert.

4. In view of the above facts and circumstances, I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction. Accordingly, this writ application is dismissed.

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(Mungeshwar Sahoo, J)