

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3575 of 2013

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1. Anil Kumar @ Naulakh Yadav S/O Late Narain Yadav Resident Of Village- Khaira Tola, Chalisa, P.O- Jamuk, P.S- Paras Bigha, District- Jehanabad.
 2. Sunil Kumar S/O Janak Prasad Resident Of Village- Khaira Tola, Chalisa, P.O- Jamuk, P.S- Paras Bigha, District- Jehanabad.

.... Petitioner/s

Versus

1. Rajesh Kumar Ranjan S/O Sri Panna Prasad Singh Resident Of Village- Khaira Tola, Chalisa, P.O- Jamuk, P.S- Paras Bigha, District- Jehanabad, At Present Residing At North T.N. Patha, Chiraiyatand Patna, P.S- Kankarbagh, Distt- Patna.
2. Chandrawati Devi W/O Sri Panna Prasad Singh Resident Of Village- Khaira Tola, Chalisa, P.O- Jamuk, P.S- Paras Bigha, District- Jehanabad, At Present Residing At North T.N. Patha, Chiraiyatand Patna, P.S- Kankarbagh, Distt- Patna.
3. Smt. Deomati Devi @ Deomatiya Devi W/O Mathura Prasad Singh Resident Of Village- Bandopur, P.O- Tera, P.S- Karpi, Distt- Arwal

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Mishra, Advocate
For the Respondent/s : Mr. Ranjan Kumar Dubey, Advocate

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

4 12-01-2016 Heard learned counsel for the parties.

The petitioners have called in question the legal sustainability of the impugned order by which the learned court below has rejected the petition dated 05.10.2012 filed by the petitioners praying for comparison of signature of PW 1.

The necessitous facts are that the suit has been filed for declaration of title with further declaration that the three sale deeds in favour of defendants are not legal and valid documents. The defendants have claimed title over the suit land on the basis of

sale deeds and have also asserted that the vendor of the defendants had acquired title over the suit land on the basis of gift deed dated 04.11.1975. During the pendency of the suit, however, PW 1 was examined and in cross-examination he denied his signature upon the gift deed.

It would be pertinent to mention here that PW 1 has appeared as one of the attesting witnesses on the gift deed dated 04.11.1975. In this backdrop, the defendants have prayed for comparison of the signature of the PW 1 on the gift deed with his admitted signature.

By the impugned order, the learned court below has mechanically dismissed the said petition, as there is no reasoning assigned by the learned court below while passing the impugned order, dismissing the petition dated 05.10.2012 (annexure-1) filed by the petitioners.

This court thinks it not necessary to go into the other detailed submissions and is inclined to remit the matter back to the learned court below for passing afresh order on the petition dated 05.10.2012 (annexure-1) filed by the defendants in accordance with law. Learned counsel for the parties, however, have expressed their inability to apprise this court of the present status of Title Suit No. 95 of 2005 but have agreed that the matter may

be remitted back to the court below to pass afresh order only if the suit is pending and stage is appropriate for passing of a fresh order.

In above view of the matter, this writ petition succeeds, the impugned order dated 09.01.2013 is quashed and the learned court below is directed to pass a fresh order on the petition dated 05.10.2012 (annexure-1) filed by the defendants in accordance with law if the suit is still pending and the stage is appropriate for passing such order. It is recorded that the learned counsel for the parties have agreed to the aforesaid course which has been directed to be adopted.

This writ petition is disposed of, accordingly.

(V. Nath, J)

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