

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.749 of 2008

- =====
1. Laldeo Singh son of late Dipu Singh.
 2. Amit Kumar Singh, minor son of Lal Deo Singh, under the fuardianship of his natural guardian and father Laldeo Singh.
 3. Most. Manmati Devi, widow of late Dipu Singh.
- All resident of village Obra, P.O. and P.S. Obra, District Aurangabad.

.....Opposite Parties 1st Set/Petitioners.

Versus

- 1.Kailash Singh son of Nand Lal singh, r/o village Obra, P.O. & P.S. Obra district Aurangabad.
- 2.Nagina Devi, w/o Shri Bishanpat Singh and d/o late Dipu Singh, resident of villange Tendua, P.o. P.S. Obra, District Aurangabad.
- 3.Dhanrago Devi w/o Shri Sheo Kumar Singh and d/o late Dipu Singh, resident of village Chiraila, P.o. Jagdishpur, P.S. Baroon District Aurangabd.

.....Oppp. Party 1st Set... Opp. Party 2nd Set.

- 4.Nand lal Singh
- 5.Shyam Lal Singh
- 6.Ram Lal Singh
7. Balram Singh, All sons of Rupan Singh.
- 8.Laxman Singh
- 9.Surendra Singh
- 10.Birendra Singh, All sons of Nand Lal Singh.
11. Ravindra Singh Minor son of Nand Lal Singh under the guardianship of his natural guardian and father Nand Lal Singh.
12. Chunu Singh
13. Munu Singh Both minor sons of Laxman Singh under

guardianship of his natural guardian and father Laxman Singh.

14. Satyendra Singh @ Kumar Satay Prakash son of Shyam Lal Singh.

15. Jitendra Singh

16. Manish Kumar Babu All minor sons of Balram Singh under the guardianship of their natural guardian and father Balram Singh.

17. Babua Banti, minor son of Kailash Singh, under the guardianship of his natural guardian and father namely Kailash Singh.

18. Bablu minor son of Surendra Singh, under guardianship of his natural guardian and father namely Surendra Singh.

All resident of village Obra P.O. and P.S. Obra District Aurangabad.

....Opposite Parties 2nd Set/Opp. Parties 2nd Set.

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Appearance :

For the Petitioner/s : Mr. Akhouri Vipin Bihari Srivastava, & Mr. Nand Kumar, Adv

For the O.P. No. 1 : Ashok Kumar, Adv & Mr. Sushil Kumar Ojha, Adv

For the O. P Nos. 5, 9 to 11: Mr. Mrigendra Kumar, Adv

For the O.P. No. 22 : Mr. Ram Chandra Singh, Adv, Mr. Jitendra Kumar Singh, Adv and Mr. Nand Lal Singh, Adv

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT

25 09-02-2016

Heard learned counsel for the parties.

2. This revision application has been filed assailing the impugned order by which the learned court below has set aside

the compromise decree on the petition filed by the opposite parties.

3. The fact is not in dispute that the suit for partition was filed by the petitioners as plaintiffs. The said suit, however, was compromised and decreed in terms of the compromise. The defendant-opposite party no. 1 thereafter filed a petition under Order Section 151 read with Order 23 C.P.C praying before the Court for setting aside the said compromise. The main contention of the opposite party was that he never entered into compromise and his signature on the said compromise petition was forged. The learned court below allowed the parties to lead evidence and after scrutiny of the evidence adduced on behalf of the parties, the impugned order has been passed setting aside the compromise decree.

4. Learned counsel appearing on behalf of the petitioners has strenuously submitted that the learned court below has failed in its duty in not directing the petitioner to make his signature before the court and thereafter to proceed with the comparison of that signature with the signature appearing in the compromise petition. It has been further submitted by the learned counsel for the petitioners that the learned court below has also failed in its duty in not calling for



an expert opinion on the dispute regarding the genuineness of the signature from an independent agency to be appointed by the court. Elaborating his submissions the learned counsel for the petitioners has placed the impugned order before this Court to point out that the parties had lead evidence and the learned court below has wrongly examined the signature on the compromise petition itself before coming the finding that it is not the genuine signature of the applicant.

5. The learned counsel for the opposite parties has supported the impugned order.

6. After careful consideration of the matter and the submissions made on behalf of the parties, it is manifest that the partition suit was disposed of in terms of the compromise as evidenced by the compromise petition filed by the parties to the suit. Subsequently, however the defendant-opposite party Kailash Singh filed a petition before the court denying the fact of compromise by him and also denied the genuineness of his signature on the compromise petition. The petitioners in their turn have supported the fact that the compromise petition was legal and valid and contained the signatures of all the parties to the suit.

7. The parties led their evidence. The defendant-



opposite parties, besides adducing other evidence, also produced the report of the handwriting expert along with the allied papers. It is also evident that the petitioners did not make prayer before the court for getting the dispute signature examined by an expert. As such, this court does not find substance in the submissions on behalf of the petitioners that the court below has committed material irregularity in not calling for a report from another handwriting expert. It is not for the court to appoint a handwriting expert for examining the genuineness of the signature in dispute unless such prayer is made by a party to the suit. Moreover it is always for the court to reach to a conclusion in case of dispute with regard to finger print or signature and the report of a handwriting expert in this regard is only by way of aid to the court in the said process as laid down by the Apex Court in the case of **Lalit Popli vs Canara Bank** reported in **2003(3) S.C.C 583**. In the present case, the learned court below has proceeded to compare the signature of the defendant-opposite parties appearing on the compromise petition (Ext. 1) with that appearing on the application under Section 151 read with Order 23 C.P.C. and has come to the conclusion that they do not tally. After considering the other evidence as well, the learned court below has concluded that the defendant-opposite

parties had not given his consent for compromise in the suit.

8. This Court has not been persuaded to find any error of jurisdiction or material irregularity committed by the learned court below in passing the impugned order.

9. The revision application is accordingly dismissed.

(V. Nath, J)

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