

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.290 of 2017

Sanjay Kumar Singh, Son of Sri Shyam Nandan Singh @ Phool Babu
resident of Ambika Motor, Market, Kankarbagh Main Road, P.S.-Kankarbagh,
District-Patna.

... .. Appellant/s

Versus

1. Sri Kamrendra Kumar Singh, Son of late Ambika Singh Resident of Mohalla
West Lohanipur, Bada Pathak, P.S.-Kadam Kuan, District-Patna.
2. Sri Ashok Singh, Son of late Ambika Singh, resident of Ambika Motor
Market, Kankarbagh Mian Road, P.S.-Kankarbagh, District-Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Manoj Kumar
For the Respondent/s : Mr.

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL ORDER

4 13-09-2017 Heard learned counsel for the parties.

The petitioner is aggrieved by an order, dated 23.06.2016,
passed in Title suit No. 495 of 1991 by the learned Civil Judge
(Sr. division) 3rd Patna, whereby an application filed by the
petitioner/plaintiff, dated 01.04.2014 has been rejected, in the
present application filed under Article 227 of the Constitution of
India.



From the record, it appears that by an order, dated 20.11.2010, the Court below had received some of the documents in evidence and had directed to mark the said documents as exhibits in the suit. Aggrieved by the said order, the petitioner had approached this Court by filing an application under Article 227 of the Constitution of India, giving rise to CWJC No. 3408 of 2011, raising a grievance that certified copy of the will, which was sought to be exhibited could not have been exhibited by the Court below. This Court considering the case of the petitioner observed that so far as registered Will is concerned, the Court below in the order, dated 20.11.2010, had observed that all the documents were public documents without considering the fact that certified copy of the Will was sought to be produced, particularly when the said Will was said to be unprobated Will. This Court disposed of the said CWJC No. 3408 of 2011 with an observation that the Court below shall consider this aspect of the matter as to whether the same can be marked as exhibit, as directed by order dated 20.11.2010. This Court, however, refused to exercise power of supervisory jurisdiction on the question of marking of the said registered Will as exhibit.

After the order of this Court dated 26.02.2014 was passed,



the petitioner filed an application on 01.04.2014, which has been disposed of by the impugned order.

Mr. Arora, learned Senior counsel appearing on behalf of the petitioner has submitted that the Court below has miserably failed to take into account the spirit of the order, dated 26.02.2014 passed in CWJC No. 3408 of 2011 inasmuch as it failed to consider whether a registered Will could be exhibited as public document at all or not.

Learned counsel appearing on behalf of the respondents on the other hand, while defending the impugned order has submitted that marking of a document as an exhibit simply suggests admissibility of the document, which shall be read and considered for evidence.

In my view, mere marking of the said registered Will as exhibit will not prejudice the case of the petitioner in any manner, as the contents are to be proved by the party concerned by adducing evidenced at the trial. No case for exercise of jurisdiction under Article 227 of the Constitution of India is made out.

The question as to whether the said document can be considered as public document, will be open for the petitioner to raise at appropriate stage.



This application stands disposed of.

(Chakradhari Sharan Singh, J)

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