

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.4224 of 2016

In

Civil Writ Jurisdiction Case No. 9974 of 2014

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Kamendra Sah, Son of Late Dasai Sah, Resident of village - Rampur, P.O. + P.S.
Runni Saidpur, District – Sitamarhi. Petitioner/s

Versus

1. Ramekbal Sah, Son of Bifai Sah, Resident of village - Runnisaidpur, P.O. + P.S. - Runnisaidpur, District - Sitamarhi
2. Ramchandra Sah, Son of Late Dasai Sah,
3. Sanjiv Sah, Son of Late Naresh Sah,
4. Sanjit Sah, Son of Late Naresh Sah
5. Mosmmat Mona Devi, Wife of Late Naresh Sah,
6. Nutan Devi, Son of Late Naresh Sah, With of Narendra Sah, resident of village - Tandaspur, Post - Tandaspur, P.S. Bathnaha, District - Sitamarhi
7. Puspa Devi, Son of Naresh Sah, Wife of Deepak Sah, resident of village - Yarpur, Post Parpur, P.S. Mithapur, District – Patna. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar Mishra, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 10-05-2017

Heard learned counsel for the petitioner in the restoration application as well as on the merits of the C.W.J.C. No. 9974 of 2014.

After considering the submissions and the averments made in the restoration application, the C.W.J.C. No. 9974 of 2014 is restored to its original file.

C.W.J.C. No. 9974 of 2014

This application has been filed challenging the order by which the learned court below has taken into evidence the order



passed by the Consolidation Officer and marked the same as Ext. 4 in the suit.

Learned counsel for the petitioner has submitted that the said document which has been marked as Ext. 4 is entirely forged and fabricated document and enquiry ought to have been done by the learned court below for finding out the veracity of the said document before accepting it in evidence.

This Court, after considering the submissions and the perusal of the impugned order, is not inclined to align with the submission on behalf of the petitioner that the enquiry should be done by the learned court below at the outset while admitting the documents as evidence and marking the same as exhibit. It is well settled that the other side has always the liberty to establish, during trial by leading cogent evidence and materials, that the particular documentary evidence produced on behalf of the other side is not forged and fabricated document. There is no provision in law for holding an enquiry into the genuineness of a document while admitting the same in evidence. This position of law has been noticed by the Apex Court in the case of **Dayamathi Bai Vs. K.M. Shaffi, 2004 (7) SCC 107**. In that view of the matter, this Court is not inclined under Article 227 of the Constitution of India to interfere in the impugned order.



The application is accordingly, dismissed.

However, the dismissal of this application shall not prejudice the right of the petitioner in accordance with law at the appropriate stage of the suit.

(V. Nath, J)

Devendra/-

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