

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18037 of 2013

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Ramjee Prasad Son of Shital Mahto, resident of village- Ganpat Bigha, Police Station Hilsa, Distt. Nalanda.

.... Petitioner/s

Versus

1. Bibha Devi D/o Late Suresh Prasad, resident of village- Ganpat Bigha, P.S. Hilsa, Distt. Nalanda at present C/o Sri Ramchandra Prasad Son of Late Bhttu Mahto, resident of village- Brohansthan, P.S. Chandi, Distt.-Nalanda.
2. Rameshwar Prasad Son of Shital Mahto, R/o Ganpat Bigha, P.S.- Hilsa, Distt.- Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rabindra Prasad Singh, Adv.
For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 07-11-2017

The petitioner is defendant no. 3 before the Court below.

He has filed this application for setting aside the order dated 31.05.2013 passed by the learned Sub-Judge-II, Hilsa (Nalanda) in T.S. No. 8 of 1994 whereby and whereunder the Court below admitted the certified copies of two sale deeds dated 20.06.1972 and 23.10.1970 in evidence and marked the documents as exhibits.

The contention of learned counsel for the petitioner is that these documents are certified copy of sale deeds and so the same could not have been marked as exhibits. It is not in dispute that these two documents are certified copies of sale deed and these were



produced by the plaintiff before the Court below. The plaintiff produced the said documents from their custody. In order to appreciate the provisions of law, it is pertinent to cite Section 90 of Evidence Act which runs as follows:-

Section 90 of Evidence Act

“Presumption as to documents thirty years old.- Where any document, purporting or proved to be thirty years old, is produced from any custody which the Court in the particular case considers proper, the Court may presume that the signature and every other part of such document, which purports to be in the handwriting of any particular person, is in that person’s handwriting, and, in the case of a document executed or attested, that it was duly executed and attested by the persons by whom it purports to be executed and attested.

Explanation.- Documents are said to be in proper custody if they are in the place in which, and under the care of the person with whom, they would naturally be; but no custody is improper if it is proved to have had a legitimate origin, or if the circumstances of the particular case are such as to render such an origin probable.

The document has been defined in Section 3 of the Evidence Act, which is as follows:-

“Section 3 Document- “Document” means any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter.”



From the conjoint reading of above provisions, it is explicit that the certified copies of both the sale deeds, which admittedly relate to period more than 30 years were produced by the plaintiff from their custody and were marked as exhibits by the Court below. The plaintiffs-respondents do not dispute the genuineness of these two documents.

In view of above facts, I find that the Court below has not committed any illegality in admitting these two documents as exhibits. This application is therefore devoid of merit and the same is accordingly dismissed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
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