

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1246 of 2017

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1. Bachcha Tiwari, son of Brij Nath Tiwari,
2. Pradeep Kumar Tiwari, son of Ram Iqbal Tiwari, Both resident of
Village- Karanpura Post Kanpur Police Station GB Nagar Tarwara District-
Siwan.

.... Petitioner/s

Versus

1. Moti Devi, wife of Ganesh Tiwari, resident of Vilkgae Satva Police
Station Goriakothi, District- Siwan.
2. Surendra Prasad, son of Late Phoolchand Prasad,
3. Shakuntala Kumari, wife of Surendra Prasad, Both are resident of Village
Karanpura Matia Police Station GB Nagar Tarwara, District- Siwan.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Chandra Kant
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

2 27-08-2018 The petitioners have filed this civil miscellaneous petition for setting aside the order dated 21.03.2017 passed by Sub Judge III, Siwan in Title Suit No.376 of 2010 by which the Sub Judge allowed the petition of the defendant to get the signature of Rampati Kuer compared with her signature on the dispute documents.

Petitioners are the plaintiffs. Petitioners filed suit for specific performance of contract for a direction to the respondents to perform their part by executing the sale deed. The plaintiffs also sought relief for confirmation of possession and if dispossessed, during the pendency of the suit for recovery of possession. The



defendant No.1 denied the execution of deed of agreement to sell in favour of the plaintiffs. During the course of evidence of the defendant, defendant filed petition for examination of thumb impression of Rampati Kuer on the disputed deed of agreement to sell from the admitted document executed by Rampati Kuer. The petitioner filed rejoinder stating that the thumb impression of Rampati Kuer on the so called admitted deed is not readable. Learned Sub Judge III has allowed the petition for comparison of the thumb impression of Rampati Kuer existing on the deed of agreement to sell and other documents on which the thumb impression of Rampati Kuer were found.

Learned counsel for the petitioners submits that the documents submitted for comparison of thumb impression of Rampati Kuer are not admitted. The disputed thumb impression should be compared with the thumb impression of Rampati Kuer bearing on admitted documents but from perusal of the rebuttal filed by the petitioners, I find that the petitioner-plaintiff never doubted the genuineness of the documents bearing the thumb impression of Rampati Kuer in evidence which are marked as exhibits. The contention of the petitioners that delta core and lines of thumb impression bearing on the documents with which the disputed impressions are to be compared are not readable but the



learned Sub Judge has held that whether the thumb impression of Rampati Kuer are readable or legible with all its lines and cores can be dealt with by the expert and, therefore, I do not find any illegality in the order directing for comparison of the thumb impression of Rampati Kuer on the disputed document with the thumb impression of Rampati Kuer on the admitted documents.

Accordingly, this civil miscellaneous petition is dismissed as devoid of any merit.

(Prabhat Kumar Jha, J)

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