

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18960 of 2013

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1. Bhola Mian Son Of Late Gulzar Mian Resident Of Village- Murarpur
Gulariya, P.O. Murarpur, P.S. Harsidhi, District- Champaran East

.... Petitioner

Versus

1. Sabu Nisha Wife Of Late Jan Mohammad Mian Resident Of Village-
Murarpur Tola Gulariya, P.O. Murarpur, P.S. Harsidhi, District- Champaran
East
2. Rahmat Ali Son Of Late Jan Mohamad Mian Resident Of Village-
Murarpur Tola Gulariya, P.O. Murarpur, P.S. Harsidhi, District- Champaran
East
3. Sarfuddin Ali Son Of Late Jan Mohamad Mian Resident Of Village-
Murarpur Tola Gulariya, P.O. Murarpur, P.S. Harsidhi, District- Champaran
East
4. Munir Ali Son Of Late Jan Mohamad Mian Resident Of Village-
Murarpur Tola Gulariya, P.O. Murarpur, P.S. Harsidhi, District- Champaran
East
5. Hari Kishore Singh S/O Late Ram Bahadur Singh Resident Of Village-
Murarpur, P.O. Murarpur, P.S. Murarpur, P.S. Harisidhi, District-
Champaran East
6. Virendra Singh S/O Late Ram Bahadur Singh Resident Of Village-
Murarpur, P.O. Murarpur, P.S. Murarpur, P.S. Harisidhi, District-
Champaran East
7. Jitendra Singh S/O Late Ram Bahadur Singh Resident Of Village-
Murarpur, P.O. Murarpur, P.S. Murarpur, P.S. Harisidhi, District-
Champaran East
8. Ravindra Singh S/O Late Ram Bahadur Singh Resident Of Village-
Murarpur, P.O. Murarpur, P.S. Murarpur, P.S. Harisidhi, District-
Champaran East.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Suresh Prasad, Advocate

For the Respondent/s : Mr. Patanjali Rishi, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

2 07-03-2018 This writ application has been filed by the plaintiff of

Partition Suit No.324 of 2001 for setting aside the order dated

01.06.2013 passed by Subordinate Judge-VIII, Motihari in



Miscellaneous Case No.14 of 2009 whereby and whereunder the learned court below refused to send the signature of respondent no.8 (Ravindra Singh) given on registered sale deed for comparison with his disputed signatures for expert report.

2. Heard learned counsel for the petitioner and the respondents.

3. The suit of the plaintiff-petitioner was decreed on contest against the defendants 1st set and ex-parte against defendants 2nd set as per judgment dated 17.04.2006 and decree dated 26.04.2006 and final decree was accordingly prepared without any objection from any side. The respondents 2nd set filed Miscellaneous Case No.14 of 2009 for setting aside the said decree. The petitioner brought the summons signed by the respondent no.8 on record to prove that the respondents 2nd set had full knowledge about the pendency of the suit. The petitioner filed a petition on 11.09.2012 to get the signature of respondent Ravindra Singh photographed and send it to handwriting expert for comparison and expert report. The learned court below allowed the petition dated 07.05.2013 filed by respondents 2nd set wherein prayer was made to send his signature allegedly put on summons dated 18.03.2002 and signature given by him on the



deposition in Miscellaneous Case No.14 of 2009. The court below ordered to send only these two signatures for expert opinion and refused to get the third signature given on registered sale deed.

4. The learned counsel for the petitioner submits that the respondent having full knowledge about the signature given on summons has signed his deposition quite differently in order to deny his signature given on summons. The petitioner filed sale deed (Ext.D) which bears the signature of Ravindra Singh. The sale deed was executed much before the disputed signature given on summons. According to the petitioner, this is admitted document and has been marked in presence of respondent no.8 and if the same is taken into consideration for comparison and expert report, the respondents will not be prejudiced.

5. The learned counsel for the respondents, on the other hand, opposed the submission.

6. It appears that the sale deed (Ext.D) is admitted document which bears the signature of respondent no.8. Two signatures, which have been ordered for comparison, relate to period subsequent to the institution of the partition suit and so for proper adjudication, earlier signature given on sale deed would be proper for comparison.



7. In view of above facts the impugned order refusing to send the signature given on sale deed is set aside and this writ application is allowed. The court below is directed to send the signature given on the sale deed also for comparison with disputed signature for expert report as prayed by the petitioner.

Harish/-

(Sanjay Kumar, J)

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