

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18844 of 2010

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Smt.Mala Sinha Wife of Madhusudan Prasad Singh, resident of Village- Bajalpura,
P.O. & P.S. Teghra, Pargana- Malki, District- Begusarai.

.... Petitioner

Versus

1(i). Chandrarekha Devi Wife of late Ghanshyam Singh

1(ii). Mukesh Singh Son of late Ghanshyam Singh

1(iii). Rajeev Kumar Son of late Ghanshyam Singh

1(iv). Ragini Devi Daughter of late Ghanshyam Singh

1(v). Amrita Kumari Daughter of Ghanshyam Singh

1(vi). Bulbul Kumari Daughter of Ghanshyam Singh

All are resident of Village- Bajalpura, P.O. and P.S. Teghra, Pargana- Malki,
District- Begusarai.

2. The State of Bihar through Law secretary.

.... Respondents

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Appearance :

For the Petitioners : Mr. Lakshmi Kant Tiwary, Advocate

For the Respondents : Md. Ataul Haque, Advocate

Md. Fahimuddin, Advocate

Mr. Gyan Prakash Ojha, (G.A. 7)

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 21-08-2018

Petitioner before this court is sole defendant in Redemption
Suit No.38 of 2007 filed by the original respondent Ghanshyam Singh
before the court of Munsif, Begusarai. This writ application has been
filed for quashing the order dated 19.07.2010 passed by Munsif II,
Begusarai whereby and whereunder the prayer of plaintiff to examine
the signature of petitioner by a handwriting expert at the cost of
plaintiff and issuance of summon for the evidence of witness Sri
Baleshwar Prasad Rai, Advocate was allowed.

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



3. The original respondent Ghanshyam Singh filed the suit for redemption of mortgage bond which was executed by him in favour of petitioner with respect to the land mentioned in Schedule I of the plaint. It is alleged that the petitioner gave a legal notice through her lawyer to the respondent whereunder she had demanded the mortgage amount as per deed executed in her favour. The plaintiff-respondent has asserted this fact at paragraph 8 of the plaint. The petitioner at paragraph 23 of her written statement has denied the allegation made by the respondent in the plaint. She has further denied that any notice was given by her lawyer to the plaintiff and also denied her signature on the said legal notice. The respondent filed petition to get the signature of petitioner examined and compared with admitted signature given on registered document through a handwriting expert.

4. From perusal of documents on record, it appears that the plaintiff had executed two registered sale deeds on 13.04.1994 vide deed nos.2499 and 2500. On the same day, the petitioner executed two registered deeds of agreement nos.2501 and 2502. The petitioner has denied the signature on the legal notice. It has been submitted that since the petitioner has denied her signature as well as legal notice given by her lawyer to the plaintiff, it has become necessary to prove this fact and so the court below has rightly ordered to get the signature



of petitioner examined by a handwriting expert at the cost of respondent. The moot question for deciding the suit is as to whether the deed in question was actually mortgage deed or registered sale deed. The petitioner had executed two registered deeds of agreement which have been marked on behalf of the respondent as submitted by the learned counsel. In order to ascertain the genuineness of legal notice, the respondent wants to get the signature examined and compared with the admitted signature of the petitioner. If the documents are examined by a handwriting expert, the petitioner would not be prejudiced in any way.

5. In view of above facts, the order allowing the prayer of respondent to get the writing/signature of petitioner examined and compared with her admitted signature and also issuance of summons to her lawyer for his evidence do not suffer from any jurisdictional error. This writ application is devoid of merit and is, accordingly, dismissed.

(Sanjay Kumar, J)

Harish/-

AFR/NAFR	
CAV DATE	
Uploading Date	25.08.2018
Transmission Date	

