

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1151 of 2016

1. Pramod Kumar Singh
2. Sanjay Kumar Singh @ Sanjay Kumar
3. Mithilesh Kumar.
All sons of Sita Ram Singh, All resident of village Sambhu Chak, Police Station- Kalyanpur, District- East Champaran.
4. Mannu Kumari wife of Brajesh Kumar Singh daughter of Sita Ram Singh, resident of village- Kauahi, P.O. Chorghatta, Police Station- Baruraj, District- Muzaffarpur.
5. Kumari Archana w/o Subhash Kumar daughter of Sita Ram Singh, Resident of Sahdulepur, P.O. Rupchhapra, P.S. Sahebganj, District- Muzaffarpur.

... .. Petitioners

Versus

1. Sita Ram Singh son of Late Jokhu Singh
2. Basishth Singh son of Late Jokhu Singh
Both are resident of village- Sambhuchak, Police Station- Kalyanpur, District- East Champaran.
3. Madan Singh
4. Shyam Sundar Singh.
5. Nagendra Singh.
3 to 5 are sons of Late Ram Chandra Singh. Resident of village- Salempur, P.O. Ahiyapur, Police Station- Sahebganj, District- Muzaffarpur.
6. Sumitra Devi wife of Parmanand Singh, daughter of Late Ram Chandra Singh, resident of village- Mathiya, P.O. Bankat, Police Station- Kesariya, District- East Champaran.
7. Krishna Devi wife of Harendra Thakur, daughter of Late Ram Chandra Singh, At + P.O. Khajuria, Police Station- Dumariya Ghat, District- East Champaran.
8. Sunita Devi wife of Arvind Kumar Singh, daughter of Late Ram Chandra Singh, resident of village- Pagahiya, P.O. Hardi, Police Station- Kathaiya, District- Muzaffarpur.
9. Bachcha Singh son of Late Satya Narayan Singh.
10. Kishundeo Singh son of Late Satya Narayan Singh
11. Ajay Singh son of Late Buchkun Singh.
12. Sanjay Singh son of Late Buchkun Singh.
9 to 12 are resident of village- Mahadiya Math, P.O. Parapati, Police Station- Sahebganj, District- Muzaffarpur.
13. Sangeeta Devi wife of Sanjeet Kumar daughter of Buchkun Singh, resident of village+ P.O. Ruphara, Police Station- Sikarganj, District- East Champaran.
14. Shambhoo Singh son of Late Sheodhar Singh, resident of village + P.O. Shambhuchak, Police Station- Kalyanpur, District- East Champaran.
15. Sunaina Devi wife of Kashi Nath Singh, daughter of Late Sheodhar Singh, resident of village + P.O. Sishwa Patna, Police Station- Keshariya, District- East Champaran.
16. Badri Singh son of Late Bansi Singh, resident of village+ P.O. Shambhuchak, Police Station- Kalyanpur, District- East Champaran.

... .. Respondents

Appearance :

For the Petitioners : Mr. Anil Kumar, Advocate



For the Respondents : Mr. Vijay Shankar Srivastava, Advocate
Mr. Mirtunjay Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL JUDGMENT

Date : 27-11-2018

This writ application has been filed for quashing the order dated 16.09.2015 passed by Additional District Judge VIII, East Champaran at Motihari in Probate Case No.11 of 2008 whereby and whereunder the expert report which was marked as Ext.5 on behalf of the petitioners was set aside and the documents and thumb impression of deed of Will and admitted sale deed was ordered to be sent to Forensic Science Laboratory, Patna, Bihar for comparison and expert report.

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

3. It appears that the petitioners filed the aforesaid probate case for grant of probate on the basis of Will dated 12.10.1996 executed by Bindeshwari Singh in favour of Shanti Devi. The opposite party appeared and filed objection. In order to prove the genuineness of Will, the petitioners filed a petition praying therein to get the disputed thumb impression examined by an expert with the admitted thumb impression of deceased. Accordingly, the expert examined the thumb impression and submitted report. After evidence of expert in court, the report was marked as Ext.5. The respondents subsequently filed a petition to get the thumb impression of the disputed document and thumb



impression of admitted document examined by government expert. The learned court below rejected the expert report (Ext.5) and ordered for sending the disputed and admitted thumb impression to Forensic Science Laboratory at the cost of respondents. I find that the court below without giving any reason has rejected the expert report. The petitioners examined the expert in court and during his evidence, the expert report was marked as Ext.5. The respondents want to get the thumb impression of disputed document examined to which the petitioners have no objection. The admissibility of expert report has to be appreciated at the time of deciding the suit and so the order setting aside the expert report (Ext.5) at the stage of evidence is not sustainable and is accordingly set aside. So far order of court below to send the disputed thumb impression to Forensic Science Laboratory, Patna (Bihar) at the cost of respondents is concerned, the said order does not require any interference.

4. This writ application is accordingly disposed of with above observation.

(Sanjay Kumar, J)

Harish/-

AFR/NAFR	
CAV DATE	
Uploading Date	01.12.2018
Transmission Date	

