

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1415 of 2016**

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Ram Dheyan Singh son of Late Bhikhari Singh resident of village - Woob,
P.S. Obra, District Aurangabad.

... .. Appellant/s

Versus

Triveni Sao son of Late Phaguni Sao resident of village - Woob, P.S. Obra,
District Aurangabad.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Akhilesh Kumar
For the Respondent/s : Mr. Dhruv Kumar, advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 03-12-2018 Heard learned counsel for the petitioner and learned
counsel for the respondent.

The petitioner is the plaintiff. The petitioner filed this petition against the order dated 20.07.2016 passed by Sub Judge-I, Aurangabad in Title Suit No. 255 of 2002 by which the petition of the defendant/ respondent for examination of the signature of defendant on agreement to sale dated 13.05.2000 (Exhibit-2) and comparison with signature of DW 3 appearing on the deposition dated 05.02.2015 and his signature in Partition Suit No. 204 of 1985 (Exhibit-10) by an expert has been allowed.

Learned counsel for the petitioner submits that signature of defendant on the deed of agreement to sale (Exhibit-2) has been examined and compared with his signature



on other admitted documents and the report of expert is already on record. The defendant cross examined the expert but could not be able to elicit any material for discarding the evidence of the expert. The examination of the signature and comparing with admitted signatures of the defendant with the signature appearing on the agreement to sale by any expert would create anomaly and if such process is allowed to continue there shall be no end of examination of signature and its comparison with admitted signature of defendant, therefore, the order is illegal.

Learned counsel for the respondent in order to justify the order submitted that the plaintiff obtained the report of the expert at his own choice and, therefore, the signature of the defendant appearing on agreement to sale with admitted signatures of defendant on other documents are required to be examined and compared by any expert but I do not find any substance in the submission of learned counsel for the respondent.

The signature of defendant appearing on the agreement to sale and other signatures of defendant on different documents admitted has already been examined and compared by the expert. The expert has submitted its report. The expert was examined as a witness and thoroughly cross examined by



the defendant/ petitioner and unless the report is rejected there is no need for examination of those admitted signatures with disputed signature of defendant appearing on different documents by any expert. Therefore, I find that the learned Sub Judge has committed jurisdictional error and illegality in allowing the signature of defendant appearing on the agreement to sale and other different documents to be again examined and compared by another expert is illegal. Accordingly, the order dated 20.07.2016 passed by Sub Judge-I, Aurangabad in Title Suit No. 255 of 2002 is set aside. This Civil Misc. petition is, accordingly, allowed.

(Prabhat Kumar Jha, J)

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