

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9418 of 2015

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Asheshwar Mahton, S/o Late Narsingh Mahton, resident of Village & P.O.-
Kushmahot, P.S.- Neema Chandpura, District- Begusarai, Bihar.

... .. Petitioner

Versus

1. Kaushal Kishore Prasad Singh, S/o Late Braj Kishore Prasad Singh, resident of Village, P.O. & P.S.- Nawkothi, District- Begusarai.
2. Kamal Kishore Prasad Singh, s/o Late Braj Kishore Prasad Singh, resident of Village, P.O. & P.S.- Nawkothi, District- Begusarai.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Nikhil Kumar Agrawal, Advocate Ms. Aditi Hausaria, Advocate Mr. Deepika Sharma, Advocate
For the Respondent/s	:	Mr. Sukumar Sinha, Sr. Advocate Mr. Abinash Kumar, Advocate Mr. Purushotam Prasad, Advocate Mr. Ratnesh Nandan Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL JUDGMENT

Date : 27-11-2018

This writ application has been filed for quashing the order dated 02.05.2015 passed by Additional District Judge V, Begusarai in Title Appeal No.36 of 2007 whereby and whereunder the learned appellate court admitted the copy of two registered sale deeds in evidence under Order 41 Rule 27 of CPC.

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

3. It appears that the suit filed by the respondents was decreed on contest against which the petitioner filed Title Appeal No.36 of 2007. During pendency of appeal, the respondents



(plaintiffs) filed petition under Order 41 Rule 27 of CPC for admitting two documents in evidence.

4. It appears that the plaintiffs in paragraph 7(A) of their plaint have specifically asserted that Akhileshwar Prasad had purchased 5 bigha 15 katha 18 dhoor land in two blocks by virtue of registered sale deed dated 10.02.1942. The plaintiffs further disclosed about the registered sale deed dated 14.02.2002 executed by Sitaram Singh and others in favour of Md. Liyakat Hussain. The defendant in his written statement has admitted both the documents in paragraph 16. It is also not in dispute that the said deed dated 10.02.1942 is the title deed of the defendants and in specific words has admitted the said document.

5. The learned counsel for the respondents (plaintiffs) submits that the plaintiffs were under impression that these documents which are admitted one, would be filed by the defendant. These two documents were withheld by the defendant and so the respondents (plaintiffs) obtained certified copy of both sale deeds and filed the same in court. The court below while allowing the petition has observed that these two documents are essential to reach at the right conclusion to decide the suit and accordingly accepted two documents in evidence. The appellant (defendant) has raised only objection that the same is not legally



acceptable under Order 41 Rule 27 of CPC but the learned counsel failed to show as to how these two documents which are admitted by the defendant would prejudice him.

6. In view of above discussions, I find that the learned court below has not committed any jurisdictional error in admitting the documents in question. This writ application is devoid of merit and is accordingly dismissed.

(Sanjay Kumar, J)

Harish/-

AFR/NAFR	
CAV DATE	
Uploading Date	05.12.2018
Transmission Date	

