

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.555 of 2016

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1. Ravindra Dubey S/o Late Triveni Dubey
2. Upendra Dubey S/o Late Triveni Dubey
3. Jitendra Dubey S/o Late Triveni Dubey
4. Rakesh Dubey S/o Late Triveni Dubey
5. Dewanti Devi D/o Late Triveni Dubey All resident of Village- Basantpur,
P.O.- Khujwa, P.S.- Raghunathpur, District- Siwan.

.... Appellant/s

Versus

1. Mahatam Bhagat S/o Late Bunai Bhagat
2. Sri Ram Bhagat S/o Late Bunai Bhagat
3. Ramdhyan Bhagat S/o Late Bunai Bhagat
4. Ram Nyas Bhagat S/o Late Bunai Bhagat
5. Most. Shivjhariya W/o Late Ramgit Bhagat All are resident of Village-
Basantpur, P.O.- Khujwa, P.S.- Raghunathpur, District- Siwan.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ranjan Kumar Dubey

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

6 30-03-2018 Heard both sides.

The petitioners have filed this civil miscellaneous petition against the order dated 06.05.2016 passed by Additional Munsif 6th, Siwan in Title Suit No.157 of 2006 by which the petition of the petitioner for taking photographs of thumb impression of Ramjit Bhagat from the sale deed for examination and comparison by an expert has been dismissed.

The learned counsel for the petitioner submits that the plaintiff filed the suit for declaration of title on the basis of the sale



deed executed by Ramjit Bhagat on 23.12.1996. The respondents disputed genuineness of the sale deed and execution of sale deed by Ramjit Bhagat on such, the plaintiff filed petition for taking steps for comparison and examination of thumb impression of Ramjit Bhagat by an expert. Therefore, it is necessary in the interest of justice that thumb impression of Ramjit Bhagat should be examined by expert. It is further submitted that in similar case pending between the parties, the petition of the plaintiff was rejected and this Court in Civil Misc. No.523 of 2016 set aside the order rejecting the prayer of the plaintiff to get the thumb impression examined by the experts and allowed the civil miscellaneous.

On the contrary, learned counsel for the respondents supported the order of the learned Munsif and submitted that there is no illegality in the order passed by the Munsif rejecting the petition of the petitioner.

Having considered the submissions, I find that the plaintiff filed the suit for declaration of title on the basis of the sale deed executed by Ramjit Bhagat and the respondent disputed the genuineness of execution of sale deed by Ramjit Bhagat. Therefore, the cardinal question to be decided in the suit is the execution of sale deed by Ramjit Bhagat and genuineness of his



thumb impression on the sale deed. Therefore, I find the examination of thumb impression of Ramjit Bhagat by an expert with the admitted thumb impression of Ramjit Bhagat is very much essential. The learned court below committed jurisdictional error rejecting the petition of the petitioner.

Accordingly, the order dated 06.05.2016 passed by Additional Munsif 6th, Siwan in Title Suit No.157 of 2006 is set aside. The Civil Miscellaneous petition is allowed with direction to the court below to allow the plaintiff to take photograph of the thumb impression on sale deed and get the same be examined by the expert.

(Prabhat Kumar Jha, J)

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