

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.520 of 2017**

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1. Sita Ram Singh, Son of Babulal Singh, Resident of village - Bharub Tole,
Haidar Bigha, P.O. Bharub, P.S. Obra, District - Aurangabad

.... Petitioner/s

Versus

1. Ram Ashish Singh,
2. Ram Suresh Singh, Both Sons of Jadunand Singh, Both Resident of
village - Bharub Tole, Haidar Bigha, P.O. Bharub, P.S. Obra, District -
Aurangabad

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Kamteshwar Prasad

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER**

2 18-08-2018 Heard learned counsel for the petitioner.

Defendant is the petitioner. The petitioner filed this civil miscellaneous petition against the order dated 14.02.2017 passed in Title Suit No.122 of 1984 by Sub Judge VIII, Aurangabad by which petition of the plaintiff to examine the L.T.I. of Sheo Nandan Singh by another expert has been allowed.

The petitioner filed the suit. The suit was posted for ex parte hearing. During the ex parte hearing, L.T.I. of Sheo Nandan Singh was examined by the Finger Print Expert. Sheo Nandan Singh and Finger Print Expert were examined and the report was exhibited but thereafter the defendants appeared and filed petition to recall the ex parte hearing of the case. The ex parte hearing of



the case allowed and the suit was filed afresh but during the course of examination of the witnesses, Sheo Nandan Singh as well as Finger Print Expert who earlier examined the finger print of Sheo Nandan Singh died. The plaintiff filed the petition to examine the admitted finger print of Sheo Nandan Singh by another expert so that the report of the Finger Print Expert be brought on record as evidence and by the impugned order, the learned Sub Judge allowed the same petition. The defendant-petitioner filed this petition against the aforesaid order.

Learned counsel for the petitioner submits that the suit is of the year 1984 and at the fag end of the suit when the argument of the suit began, the order impugned was passed but it appears that the Finger Print Expert was earlier examined before the appearance of the defendant when the suit was posted for ex parte hearing but after appearance of the defendant-petitioner the Finger Print Expert died and, therefore, the report of the Finger Print Expert could not be brought on record in evidence and the learned court below has rightly allowed the petition of the plaintiff to examine the admitted L.T.I. of Sheo Nandan Singh by another expert and bring the same on record in accordance with law.

Having considered the facts aforesaid, I do not find any illegality in the order impugned. Accordingly, this petition is



dismissed.

The trial court is directed to get the finger print examined within two months and thereafter dispose of the suit within six months from the date of receipt of this order.

(Prabhat Kumar Jha, J)

Saurabh/-

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