

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1127 of 2016

Krishna Thakur S/o Late Chhedi Thakur R/o village - Jamuara Kala, P.O.
Jamuara, P.S. Roushanganj, District - Gaya

... .. Petitioner/Defendant 2A

Versus

1. Lachho Devi D/o Late Karu Thakur, W/o Sri Sudama Thakur R/o village -
Brindavan, P.O. Sawankala, P.S. Amas, District – Gaya
... ..Respondent 1st Set/ Plaintiff
2. Munna Devi, W/o Late Karu Thakur R/o village - Jamuara Kala, P.O.
Jamuara, P.S. Roushanganj, District - Gaya

... .. Respondent 2nd Set/ Defendant No. 1

Appearance :

For the Appellant/s : Mr. Sanjay Kumar
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT

Date : 14-09-2018

Heard both sides.

2. The petitioner has filed this civil miscellaneous petition against the order dated 20.06.2016, passed by Sub Judge-I, Sherghati in Partition Suit No. 117 of 2015 by which the petition of the petitioner for taking photographs of the thumb impression on the sale deed of the year 1989 and gift deed of 1993 for examination by the expert has been rejected.

3. The learned counsel for the petitioner submits that of course the plaintiff and the petitioner-defendant were allowed to take photographs of the LTI of Karu Thakur on the sale deed and gift deed and the petitioner got it examined by the expert but the defendant did not get it examined the two LTIs by the expert. The



learned Sub Judge rejected the petition on the ground that the petitioner himself filed a petition on 17.08.2015 that he does not want to examine the LTI bearing on two deeds by an expert but thereafter the petitioner again filed this petition and accordingly the same was rejected.

4. Mr. Sanjay Kumar, the learned counsel for the petitioner submits that the petitioner did not get the two LTIs examined by the expert for quite some time but the learned counsel for the petitioner without taking of his consent filed the petition on 17.08.2015 and on that ground the petition of the petitioner has been rejected. The petitioner would suffer irreparable loss, if the petitioner is not allowed to get the LTI of Karu Thakur bearing on sale deed and gift deed examined by an expert. On the other hand, the learned counsel for the respondents submitted that the court waited for seven long years but the defendant did not get it examined and at the fag end of the trial the defendant filed the petition.

5. It appears that of course sufficient time was given to the petitioner to get the LTIs of Karu Thakur found on the sale deed of the year 1989 and the gift deed of 1993 examined by the expert but the petitioner submitted committed laches. The plaintiff has already get the LTIs examined by the expert. In this view of



the fact, for the ends of justice, I think it proper that the petitioner should also be allowed to get the LTIs examined by an expert within three months on payment of cost of Rs. 2,000/-. The cost shall be given to the plaintiff. Accordingly, the order dated 20.06.2016 passed in Title Partition Suit No. 117 of 2015 is set aside with a direction that the petitioner be allowed to get both the LTIs examined by an expert within three months.

6. The civil miscellaneous petition is allowed.

(Prabhat Kumar Jha, J)

S.KUMAR/-

AFR/NAFR	NAFR
CAV DATE	NA
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