

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21931 of 2011

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1. Shail Kuer W/o late Hajari Tiwary,
2. Bhagwati Tiwary Son of Late Gjeswar Tiwary,
3. Kashi Nath Tiwary Son of Late Gjeswar Tiwary,
4. Kashi Nath Tiwary Sons of late Gjeswar Tiwary,
All residents of Village Tola Sipaya, P.O. Sipaya, P.S. Vishwambharpur, District-Gopalganj.

.... Petitioners

Versus

1. Umaravati Devi Wife of Shambhu Nath Rai,
resident of Village- Sipaya tola. P.O. Sipaya Farm, P.S. Vishwambharpur, Distt. Gopalganj.
2. Bunela Yadav Son of Shivilal Yadav, resident of Village- Khem Matihaniya, P.O. & P.S. Vishambharpur, Distt. Gopalganj.
3. Dhurandhar Rai Son of Koshila Rai, resident of Village-Basdila, P.O. & P.S.-Tarya, Dist.-Kushi Nagar (U.P.).

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Nagendra Rai, Advocate
Mr. Navin Nikunj, Advocate
For the Respondent/s : Mr. Shailendra Kr. Dwivedi, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 30-07-2018

Petitioners before this court are plaintiffs of Title Suit No.203 of 2005 pending in the court of Subordinate Judge-VII, Gopalganj. They have filed this application for quashing the order dated 20.09.2011 whereby and whereunder the court below allowed the petition filed by defendants-respondents and marked some documents as exhibits observing the said documents to be public documents.

2. Heard learned counsels for the petitioners and the



respondents.

3. In course of trial, the defendants filed a petition praying therein to mark four documents as exhibits. These documents are certified copies of the thumb impression register, letter from District Registration Office Chapra under Memo No.232 dated 28.04.2009, copy of application filed under Right To Information Act and government receipt. The petitioners claimed title on the basis of registered deed of gift dated 10.01.1957 alleged to be executed by one Kailash Tiwary in favour of Gujeshwar Tiwary who was father of plaintiff no.2 and 3. The defendants-respondents have denied the genuineness of said deed of gift. According to the defendants, the said document is fabricated and fraudulent document and it was never executed. In order to prove this fact, the defendants have prayed to mark the said documents. The court below as per the impugned order marked those documents with an observation that admission of documents does not mean that the documents have been treated as genuine documents. The genuineness and relevancy of those documents have to be considered at the time of final disposal of the suit.

4. According to the learned counsel for the petitioners, the said documents have been marked illegally in spite of protest of the petitioners ignoring the provisions of Evidence Act. In view of



observation of court below, I find that this order does not prejudice the petitioners in any way as it is open for the parties to raise the legality of marking the said documents as public document. The court below has observed that the genuineness of document will be considered at the time of hearing and disposal of the suit.

5. In view of above fact, this application being devoid of merit is dismissed with an observation that the legality and admissibility of those documents shall be considered by the court below at the time of disposal of the suit.

(Sanjay Kumar, J)

Harish/-

AFR/NAFR	
CAV DATE	
Uploading Date	03.08.2018
Transmission Date	

