

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19717 of 2013

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Smt. Asha Devi Daughter of Late Ganesh Prasad Singh and Wife of Sri Rajendra Prasad, resident of village - Ahuara P.S. - Naubatpur, Dist - Patna at present resident of Karhe Kurha, P.S. - Paliganj, Distt. – Patna.

.... Petitioner/s

Versus

Sri Jitendra Kumar Son of Late Madhav Prasad Singh, resident of village - Karhe Kurha, P.S. - Paliganj, Distt. – Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rama Kant Jha, Adv.

For the Respondent/s : None.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 02-04-2018

The petitioner has filed this application for quashing the order dated 19th July 2013 passed by Sub-Judge-III, Danapur in Title Suit No. 75 of 2008 whereby and whereunder the petition filed by the defendant on 19.07.2013 for marking a document as exhibit, was allowed.

2. Heard learned counsel for the petitioner. Nobody appeared for the respondent.

3. It appears that the petitioner filed the aforesaid Title Suit No. 75 of 2008 for declaration that the sale deed dated 22nd September 2006 executed by Sonamati Devi in favour of defendant as illegal, inoperative and also for declaration of his title and confirmation of possession. During the course of argument, he filed a petition and a document memorandum of partition which has been admitted in evidence by the court



below.

4. The contention of the learned counsel for the petitioner is that the said document is a private document and without assigning any reason, the court below accepted the same at belated stage. Earlier to this petition, the petitioner had also filed some documents for marking the same as exhibits which were partly allowed as per order dated 25.02.2011 and only the public documents were marked as exhibits. The court below refused to mark other documents. The court below indiscriminately passed the impugned order and accepted the document which is neither public document nor admitted. The court below has not assigned any reason for accepting the said documents in evidence. The memorandum of partition which is admittedly is not a public document, has been filed at the belated stage. If this document is taken into consideration, the petitioner-plaintiff would be required to rebut the same which is not legally permissible.

5. In view of above facts, the impugned order accepting the document at the fag end of trial, is not sustainable and is set aside.

6. This application is accordingly allowed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
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