

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1498 of 2017

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1. Most. Anarkali Wife of late Manager Bhagat , D/o late Lal Mohar Bhagat Resident of Village Mathia, P.S. Mirganj, District Gopalganj, At Present Resident of Village- Gausihata, P.O.Mirganj , P.S. Barharia, District-Siwan.

.... Petitioner/s

Versus

1. Ram Naresh Bhagat Son of late Harihar Bhagat
2. Ghanshyam Bhagat Son of late Harihar Bhagat
3. Shyamdeo Bhagat Son of late Harihar Bhagat All resident of Village Mathia, P.S. Mirganj, P.O. Mirganj, Pargana Kuadi, District- Gopalganj.
4. Sheokali Devi Wife of Ram Barai Bhagat, D/o late Lal Mohar Bhagat Resident of Village Kail Tola Sheodhar Hata, P.S. Barharia, District Siwan.
5. Most Maina Kuar Wife of late Subash Bhagat
6. Pratibha Kumari daughter of late Subash Bhagat Both Resident of Village- Mathia, P.S. Mirganj, Pargana Kuadi, District - Gopalganj.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Naresh Prasad

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

2 27-07-2018 Heard both sides.

The petitioner has filed this civil miscellaneous petition against the order dated 30.06.2017 passed by Subordinate Judge VI, Gopalganj by which the petition of the petitioner-plaintiff for amendment in para 8 of the plaint has been rejected.

Petitioner is the plaintiff in the court below. The plaintiff filed title suit for declaration of gift deed as fraudulent and forged. In para 8 of the plaint, even after amendment, the plaintiff stated that the defendants in the condition of illness of Lal Mohar Mahto



with the help of deed writers took his thumb impression but by amendment, the plaintiff wanted to delete the word that Lal Mohar Mahto put his thumb impression on the deed of gift.

The learned counsel for the petitioner submits that amendment is clarificatory in nature and it will not change the nature of the suit.

On the other hand, learned counsel for the respondents submits that the genuineness and mode of execution of deed of gift is under challenge. The plaintiff claimed that the defendants fraudulently obtained the thumb impression of Lal Mohar Mahto on the gift deed but no thumb impression of any body was found on the deed of gift. This fact came to the knowledge of the plaintiff at very earlier stage but even then the plaintiff brought the amendment at the fag end of argument and no explanation is offered to bring amendment at such belated stage which is barred by the proviso of Order VI Rule 17.

Having considered the submissions of both sides and on perusal of the records, I find that this is the admission of the plaintiff that the accused persons with the help of deed writers took the thumb impression of Lal Mohar Mahto on the deed of gift but no thumb impression was found on deed of gift of Lal Mohar Mahto and Lal Mohar Mahto put his signature thereon.



I find that by way of amendment, the plaintiff wanted to withdraw the admission, and, therefore, I find that the learned Sub Judge has rightly rejected the amendment petition of the petitioner.

Having considered the facts aforesaid, I do not find any merit in this civil miscellaneous petition. Accordingly, the same is dismissed.

(Prabhat Kumar Jha, J)

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