

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.587 of 2018

In
CIVIL MISCELLANEOUS JURISDICTION No.1415 of 2016

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Triveni Sao, son of Late Phaguni Sao, resident of village-Woob, P.S. Obra,
District Aurangabad.

... .. Petitioner/s

Versus

Ram Dheyan Singh son of Late Bhikhari Singh, resident of village-Woob, P.S.
Obra, District Aurangabad

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Dubey
For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 13-03-2019 Heard learned counsel for the petitioner.

The petitioner has filed this civil review petition to review the order dated 03.12.2018 passed in Civil Misc. No. 1415 of 2016 by which the order dated 20.07.2016 passed by Sub-Judge-I, Aurangabad in Title Suit No. 255 of 2002 was set aside.

The Sub-Judge-I, by the aforesaid order, allowed the petition of the defendant for examination of the signature of the defendant on agreement to sale dated 13.05.2000(Ext.2) and comparison with the signature of D.W. 3 appearing on the deposition dated 05.02.2015 and his signature in Partition Suit No.204 of 1985 by an expert but it was held that the examination of the signature of the defendant on different



documents was held by an expert. The defendant got opportunity to cross-examine the expert and the expert was discharged. Thereafter, the defendant filed the petition for examination of his admitted signature on different documents by another expert which was allowed. This Court held that once a report of the expert is on record, the signature of the defendant can not be allowed to be examined by another expert unless the report of the first expert is rejected or the Court finds the report of the expert insufficient.

Mr. R.K.Dubey, learned counsel for the petitioner submits that there is apparent error on record. Defendant-petitioner filed objection on the report of the expert but the objection of the petitioner was not disposed of. It is further submitted that on similar facts, this Court in the case of Civil Misc. No. 555 of 2016 and Civil Misc. No. 523 of 2016 allowed the signature of a party to be examined and compared with his admitted signature.

From perusal of the order dated 30.03.2018 passed Civil Misc. No.555 of 2016, it is evident that the plaintiff filed the suit for declaration of title on the basis of the sale deed executed by Ramjit Bhagat on 23.12.1996. The respondent disputed execution of sale deed by Ramjit Bhagat on such the



plaintiff filed petition for taking steps for comparison and examination of thumb impression of Ramjit Bhagat by an expert and on such facts, the Court held that it is necessary in the interest of justice that thumb impression of Ramjit Bhagat should be examined by an expert. On the same facts, Civil Miscellaneous No. 523 of 2016 was also allowed which finds place in that order itself. I find that set of facts of that case is quite different. When defendant disputed the genuineness of signature/ thumb impression of the executant of the sale deed, the onus shifts on the plaintiff to prove the signature of the executant of the sale deed on the disputed sale deed with the admitted signature of the executant of the sale deed appearing on another documents. The facts of the present case in hand is that the signature/thumb impression of the defendant on the disputed deed was examined and compared with the signature/ thumb impression of the defendant on other deeds and deposition. The defendant got full opportunity to impeach the report of the expert but the defendant failed to elicit any material in order to impeach the report of the expert but at the same time, defendant filed petition for examination of his thumb impression/signature on different documents including the signature appearing on the disputed document and the Court



allowed the same. Therefore, it was held that order of learned Sub-Judge was illegal and accordingly the same was set aside.

Having considered the facts aforesaid, I do not find any apparent error on the record to review the order dated 03.12.2018 passed in Civil Misc. No.1415 of 2016. Accordingly, this Civil Review petition is dismissed.

(Prabhat Kumar Jha, J)

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