

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.393 of 2019**

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Lalpari Kunwar @ Lalpari Devi W/o Yamuna Ray R/o Village-Gang-Sargatti,
P.S.-Khaira, District-Saran.

... ..Plaintiff-Petitioner.

Versus

1. Tara Devi W/o Dhaneshwar Ray R/o Village-Gang-Sargatti, P.S.-Khaira,
District-Saran
2. Kedar Ray S/o Chandradip Ray R/o Village-Gang-Sargatti, P.S.-Khaira,
District-Saran

... ..Defendants- Respondents

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Appearance :

For the Petitioner : Mr.Anant Kumar Bhaskar, Advocate
For the Respondents : Mr.

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**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT**

Date : 11-07-2019

Heard learned counsel for the petitioner and perused
the materials available on record.

2. This application under Article 227 of the
Constitution of India has been filed by the petitioner for setting
aside the order dated 01.11.2018 passed by the learned Munsif-1,
Saran at Chapra in Title Suit No. 42 of 2006 by which the petition
dated 03.08.2018 filed on behalf of the plaintiff-petitioner for
marking certified copy of sale deed dated 17.05.1974 as exhibit
has been rejected.



3. Learned counsel for the petitioner submitted that the reasons assigned by the learned Munsif for rejecting the application filed by the petitioner are not sound. He ought to have taken into evidence the certified copy of the sale deed 17.05.1974, as the original sale deed was already on record of the court. By not allowing the application of the petitioner, the court has grossly erred on facts and in law.

4. The case of the petitioner is that Title Suit No. 42 of 2006 was filed by him against the defendants pleading therein that her husband had purchased 10 dhurs of land of Khata No. 16, Survey No. 893, Mauja- Gnag Sargatti, P.S.-Khaira, District- Saran on 17.05.1974 through registered sale deed from the father of the defendant no. 2 and came in its peaceful possession. He remained in continuous possession of land for more than 12 years. Unfortunately, in the registered sale deed, in place of khata no. 16, 74 has been placed and in place of survey no. 834, 893 and 137 have been typed. The petitioner came to know on 24.06.2006 that respondent no. 2 has fraudulently executed registered sale deed of 3 dhurs, out of 10 dhurs in favour of his wife respondent no. 1 on 16.03.2005. Then she filed the suit for declaring registered sale deed dated 16.03.2005 void and for maintaining status quo till pendency of the suit.



5. The defendants appeared in the suit and filed their respective written statements. They prayed for dismissal of the suit on the ground that Chandradeep Ray has not executed sale deed of the land in question in favour of the husband of the petitioner.

6. On perusal of the order impugned dated 01.11.2018, I find that after the evidence of the plaintiff was closed in the suit on 18.02.2014, all the documents relied upon by the plaintiff-petitioner were marked as exhibits in the course of trial. Thereafter, the case was posted for evidence on behalf of the defence. After closure of the evidence on behalf of the parties, the argument commenced on 19.07.2017. While the argument was going on, the petitioner filed an application on 02.08.2018 wherein she had prayed for marking the certified copy of the sale deed dated 17.05.1974 as exhibit. No reason was explained by the petitioner before the court below as to why the certified copy of the sale deed was not filed before the court when the evidence on behalf of the plaintiff was going on. The court below has clearly held that the original sale deed, which was executed by Chandradeep Ray in favour of Jamuna Ray for consideration of Rs.1000/- in respect of 10 dhurs land has already been brought on record and marked as Ext. 1, which also finds mention in the plaint



of the plaintiff. The said sale deed is of 17.05.1974. On comparison, the court below found that page 1 of the certified copy of the sale deed, which the petitioner wanted to be marked as exhibit, was not present in the original registered sale deed, as it was torn. It was found that the certified copy was belatedly filed just in order to delay the disposal of the trial.

7. Having regard to the facts and circumstances, I find that in a suit of 2006, the plaintiff had ample opportunity to lead evidence till 2014. The plaintiff has also brought on record the original sale deed, which has been marked as Ext.1. After closure of the evidence on behalf of the plaintiff-petitioner on 18.02.2014, the defence also led its evidence and, after the closure of the evidence on behalf of the parties, the arguments commenced on 19.07.2017. In the midst of argument, suddenly, on 02.08.2018, the petitioner filed an application for marking a certified copy of a document as exhibit, the original of which was already marked exhibit earlier, without assigning any reason as to why the said document could not be produced earlier in evidence.

8. Considering the facts and circumstances of the case, the learned Munsif rightly rejected the application of the petitioner.



9. The application, being devoid of any merit, is
dismissed.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.07.2019
Transmission Date	NA

