

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.646 of 2018

Raj Kumar Singh S/o Late Mahanand Singh, R/o Village Purani Panapur, P.S. Danapur, District- Patna, Presently residing at Sikandarpur, Nasriganj, P.S. Danapur, District- Patna.

... .. Petitioner/s

Versus

1. M/s Engineering Enterprises and Ors
2. Kaushal Kishore Singh, S/o Ram Yatan Singh, R/o Pipraun, P.O. Pipraun, P.S. Harlakhi, District- Madhubani.
3. Punjab National Bank, Boring Road Branch, Patna, through its Chief Manager.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Subroteshwar De
		Mr. Laxmi Narayan Das, Advocates.
For the Respondents No.1 & 2:		Mr. Kumar Priya Ranjan, Advocate
For Respondent No. 3		Dr. Pankaj, Advocate.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

9 14-11-2022 Heard Mr. Subroteshwar De, learned counsel for the petitioner, Mr. Shiv Shankar Prasad Yadav, learned counsel for the Respondent No. 2 as well as Dr. Pankaj, learned counsel appearing for the Bank.

2. The petitioner is aggrieved by an order dated 23.03.2018 passed by the learned Sub Judge 1st, Danapur, Patna in T.S. No. 293 of 2010 whereby the learned Sub Judge has rejected the prayer of the plaintiff to mark the original signature of Uma Shankar Rai and Suraj Deo Rai as exhibit.

3. Learned counsel for the petitioner submits that the



petitioner has filed a suit for specific performance against the Respondent Nos. 1 and 2 on the ground that there was an agreement for sale between the petitioner and the Respondent Nos. 1 and 2 for sale of landed property described in schedule of the agreement which was mortgaged to the Punjab National Bank. He next submits that there was a loan upon the property under agreement and the petitioner on the basis of agreement for sale and as agreed by Respondent No.1 and 2, paid the consideration amount directly to the Punjab National Bank by way of Bank Draft. Accordingly, the loan of the Respondent Nos. 1 and 2 was liquidated and the mortgaged property was redeemed.

4. He further submits that prior to the agreement between the petitioner and Respondent Nos. 1 and 2, the Respondent Nos. 1 and 2 had entered into an agreement for sale with one Uma Shankar Rai and Suraj Deo Rai and had received part consideration amount from them to the extent of Rs. 1,0,5000/- and Rs. 2,10,000/-.

5. The said amount has also been returned by the petitioner towards the consideration amount to Uma Shankar Rai and Suraj Deo Rai by way of Bank Draft which they have acknowledged and have granted receipt on the photocopy of the



agreement for sale executed between them and Respondent No. 1 and 2. He further submits that the aforesaid amount of Rs. 1,0,5000/- and Rs. 2,10,000/- were return by the petitioner to them by way of Bank Draft and the said fact has been stated in the agreement for sale between petitioner and Respondent No. 1 and 2.

6. Accordingly, his submission is that total consideration amount of Rs. 6,05,000/- has been paid to Respondent Nos. 1 and 2 towards the total consideration amount at their instance in favour of the Bank as well as in favour of the aforesaid two persons, Uma Shankar Rai and Suraj Deo Rai with whom the Respondent Nos. 1 and 2 had entered into the agreement for sale for the subject land.

7. The learned counsel also submits that the photocopy of the earlier agreement for sale upon which the original signature of Uma Shankar Rai and Suraj Deo Rai are there was filed, but inadvertently their signature could not be exhibited and accordingly, the petitioner filed a petition for exhibiting the aforesaid original signatures upon the photocopy of agreement for sale which has been rejected by the learned trial court.

8. On the other hand, learned counsel for the



respondents submits that actually the issue is something different and the learned trial court has rightly rejected the application of the petitioner.

9. Learned counsel appearing for the bank, however, submits that the entire loan amount of the bank has been paid and the land has already been released from mortgage by the bank.

10. I have heard learned counsel for the parties and gone through the materials on record. It transpires that the petitioner/plaintiff has filed a petition for exhibit of the original signatures of Uma Shankar Rai and Suraj Deo Rai put upon the agreement for sale, but the same has been rejected by the trial court on the ground that the same appears to be photocopy of the signatures and has rejected the petition filed by the petitioner.

11. The petitioner has filed a supplementary affidavit bringing on record the signatures put by the aforesaid two persons on the agreement for sale by way of acknowledgment with regard to payment of sum of Rs. 6,05,000/-.

12. Learned counsel for the petitioner has submitted that the original signature of Uma Shankar Rai and Suraj Deo Rai is there on the agreement for sale.



13. Taking into consideration the nature of controversy and the fact that according to the petitioner, the amount in question has been paid by Bank Draft in favour of Uma Shankar Rai and Suraj Deo Rai, this application is allowed. The order impugned is set aside.

14. Learned trial court is directed to allow the petitioner to exhibit the signatures put on agreement for sale in accordance with law.

(Anil Kumar Sinha, J)

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