

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.98 of 2018

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Dhanpati Devi W/o late Shyam Lal Mehta Resident of Mohalla- Shahpur, P.O.
P.S. and District- Aurangabad.

... .. Petitioner/s

Versus

1. Laljhari Devi and Ors W/o Sarjoo Mehta
2. Shanti devi W/o Binda Mehta
3. Saryoo Mehta S/o Jageshwar Mehta
4. Binda Mehta S/o Jageshwar Mehta All resident of Mohalla- Shahpur, P.O.
P.S. and District-Aurangabad,.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kr Singh No. 6, Advocate
For the Respondent/s : Mr. Bachan Jee Ojha, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

6 02-08-2022 Heard Mr. Anil Kumar Singh No. 6, learned counsel

for the petitioner and Mr. Bachan Jee Ojha, learned counsel for
the Respondent.

2. The petitioner is aggrieved by the order dated 6.12.2017 passed by the learned trial Court in Title Suit No. 67 of 2003 by which the petition filed by the petitioner to exhibit the certified copy of Compensation Case No. 4565/53-54 has been rejected.

3. The petitioner is plaintiff in the suit for declaration of title and recovery of possession. While the witnesses on behalf of the Plaintiff was being examined, the plaintiff filed the petition on 8.4.2015 to exhibit the certified copy of the order passed in Compensation Case No. 4565 of 53-54. The learned



Trial Court by the impugned order, has rejected the petition on the ground that the same has been filed at a belated stage and with intention to delay in disposal of the suit. At present the plaintiff's evidence has already been closed and evidence of defence is going on.

4. This Court vide order dated 18.8.2018 had called for a report from learned Munsif, Aurangabad, as to why the certified copy of the return filed by the petitioner in Title Suit No. 67 of 2003 is not being handed over.

5. Learned counsel for the petitioner submits that in compliance of the order of this Court dated 18.08.2018, the certified copy has now been returned and the same has been produced by the learned counsel for the petitioner before this Court.

6. I have perused the certified copy of Compensation Case No. 4565/53-54 and from perusal of the same it appears that certified copy was issued on 25.06.1974. The present document is more than 30 years old.

7. From perusal of the impugned order, it appears that the learned Trial Court has insisted for submission of a fresh certified copy of Compensation Case No. 4565/53-54 by the petitioner and on that very ground and on the ground of



delay the petition for marking exhibit, the certified copy of the Compensation Case No. 4565/53-54 issued in the year 1974 has been rejected.

8. It is a well settled that if the authenticity of the document is not questioned by other side, the same can be admitted in evidence, although, the case is fixed for argument.

9. The Hon'ble Supreme Court in a case of *Rukaiyabibi Ahmed Ali Ismail & Others. Vrs. Musa Ismail Mahmed Khusal and Others* reported in (2014) 16 SCC 422 and this Court in a case of *Md. Nuruddin @ Noor Mohammad & Another Vs. Md. Abbas & Another* reported in 2016 (4) PLJR 952 held that if the authenticity of document is not questioned by the other side, the same can be allowed to be adduced even at the stage of argument and on the ground of cut short the delay or multiplicity of the proceeding, the fundamental principle of CPC cannot be violated.

10. Learned counsel for the Respondent failed to produce any material to show that authenticity of the document sought to be exhibited by the petitioner was doubted at any stage.

11. In view of the aforesaid discussion and on the point of law as well as fact, the order impugned is set aside and



the trial court is directed to accept the certified copy of the Compensation Case No. 4565/53-54 as a piece of documentary evidence in accordance with law.

12. Accordingly, this application stands allowed.

(Anil Kumar Sinha, J)

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