

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.681 of 2022

1. Sukhdeo Yadav @ Sugdev Yadav Son of Late Kaila Yadav Resident of Village and Mauza- Chhaperdih, P.O.- Chhaperdih, P.S.- Sono, District- Jamui.
2. Suraj Yadav @ Suraj Narayan Yadav, Son of Late Kaila Yadav Resident of Village and Mauza- Chhaperdih, P.O.- Chhaperdih, P.S.- Sono, District- Jamui.
3. Paro Yadav @ Balchand Yadav, Son of Late Kaila Yadav Resident of Village and Mauza- Chhaperdih, P.O.- Chhaperdih, P.S.- Sono, District- Jamui.
4. Lakhan Yadav, Son of Late Kaila Yadav Resident of Village and Mauza- Chhaperdih, P.O.- Chhaperdih, P.S.- Sono, District- Jamui.

... .. Petitioner/s

Versus

1. Khyman Yadav S/o Late Narayan Yadav Resident of Village and Mauza- Chhaperdih, P.O.- Chhaperdih, P.S.- Sono, District- Jamui.
2. Budhni Devi, W/o Late Ram Prasad Yadav Resident of Village and Mauza- Chhaperdih, P.O.- Chhaperdih, P.S.- Sono, District- Jamui.
3. Mannu Yadav, S/o Late Ram Prasad Yadav Resident of Village and Mauza- Chhaperdih, P.O.- Chhaperdih, P.S.- Sono, District- Jamui.
4. Bind Yadav, S/o Late Ram Prasad Yadav Resident of Village and Mauza- Chhaperdih, P.O.- Chhaperdih, P.S.- Sono, District- Jamui.
5. Mahesh Yadav, S/o Late Ram Prasad Yadav Resident of Village and Mauza- Chhaperdih, P.O.- Chhaperdih, P.S.- Sono, District- Jamui.
6. Pawan Yadav, S/o Late Ram Prasad Yadav Resident of Village and Mauza- Chhaperdih, P.O.- Chhaperdih, P.S.- Sono, District- Jamui.
7. Rani Devi, W/o Binod Yadav Resident of Village and Mauza- Chhaperdih, P.O.- Chhaperdih, P.S.- Sono, District- Jamui.
8. Mamta Yadav, W/o Yogendra Yadav Resident of Village and Mauza- Chhaperdih, P.O.- Chhaperdih, P.S.- Sono, District- Jamui.
9. Dewli Devi, W/o Late Darshan Yadav Resident of Village and Mauza- Chhaperdih, P.O.- Chhaperdih, P.S.- Sono, District- Jamui.
10. Rajendra Yadav, S/o Late Darshan Yadav Resident of Village and Mauza- Chhaperdih, P.O.- Chhaperdih, P.S.- Sono, District- Jamui.
11. Jitendra Yadav, S/o Late Darshan Yadav Resident of Village and Mauza- Chhaperdih, P.O.- Chhaperdih, P.S.- Sono, District- Jamui.
12. Pramod Kumar Yadav, S/o Late Darshan Yadav Resident of Village and Mauza- Chhaperdih, P.O.- Chhaperdih, P.S.- Sono, District- Jamui.
13. Sharita Devi, D/o Late Darshan Yadav Resident of Village and Mauza- Chhaperdih, P.O.- Chhaperdih, P.S.- Sono, District- Jamui.
14. Sangeeta Devi, D/o Late Darshan Yadav Resident of Village and Mauza- Chhaperdih, P.O.- Chhaperdih, P.S.- Sono, District- Jamui.



15. Ilai Devi, D/o Late Darshan Yadav Resident of Village and Mauza-Chhaperdih, P.O.- Chhaperdih, P.S.- Sono, District- Jamui.
16. Sanju Devi, D/o Late Darshan Yadav Resident of Village and Mauza-Chhaperdih, P.O.- Chhaperdih, P.S.- Sono, District- Jamui.
17. Dwarik Yadav, S/o Mosahab Yadav Resident of Village and Mauza-Chhaperdih, P.O.- Chhaperdih, P.S.- Sono, District- Jamui.
18. Bharoshi Yadav, S/o Mosahab Yadav Resident of Village and Mauza-Chhaperdih, P.O.- Chhaperdih, P.S.- Sono, District- Jamui.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Nagendra Dubey
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 23-11-2022 The petitioners are defendants in a suit, bearing Title Suit No. 25 of 1998, filed by the plaintiffs-respondents for confirmation of title and possession over the suit land and further for declaration of registered sale deed, dated 07.01.1983, as null and void.

On 27.07.2009, the respondents-plaintiffs filed a petition for verification of the thumb impression on the sale deed, which was allowed by the learned Trial Court on 29.07.2009, with direction to the defendant, namely, Sukhdeo Yadav, to put his thumb impression before the Sheristedar in presence of both the parties. Again, on 26.06.2014, the learned Trial Court directed the defendant, Sukhdeo Yadav, for giving his thumb impression before the Sheristedar, with further direction to send it to the Bureau of Crime and Research



Department, Patna, for verification of the thumb impression by Finger Print Bureau. The Sheristedar complied the order and submitted his report and on the basis of the report submitted by the Sheristedar, the learned Trial Court, vide order, dated 18.04.2017, sent the specimen thumb impression of defendant Sukhdeo Yadav to the Finger Print Bureau, Patna, for comparison/verification. The report of the Finger Print Bureau, Patna, was received by the learned Trial Court, on 23.03.2018. At this juncture, the respondents-plaintiffs filed a petition that report of the Finger Print Bureau, Patna, be exhibited as documentary evidence.

A rejoinder has been filed by the petitioners-defendants to the petition filed by the plaintiffs-respondents, contending therein that the report suffers from the infirmity and the same is doubtful inasmuch as the envelope in which the report was sent, was not opened in the open court and none of the parties made any request to open the said report. Further submission of the petitioners-defendants is that the thumb impression was not taken before the Court; rather, it was taken before the Sheristedar, which is not lawful. The report does not mention anything about the full characteristics of the thumb and only refers the short ridge and re-joining. The Expert did not



calculate all the medo ridge and further the report did not mention about the age of the medo and the pattern thereof.

I have heard learned Counsel for the petitioners and have gone through the materials available on record, including the impugned order, dated 26.07.2022.

It is an admitted position that specimen thumb impression of the defendant Sukhdeo Yadav was taken in presence of the parties before the Sheristedar, as per the order of the learned Trial Court and the report of the Finger Print Bureau, Patna, was sent to the Court by the said Department. The learned Trial Court has come to the conclusion in the impugned order that the evidentiary value of the exhibited document is to be analyzed at the time of final judgment.

The Supreme Court, in the case of **Bipin Shantilal Panchal v. State of Gujarat and Another**, reported in (2001) 3 SCC 1, has held that whenever an objection is raised during evidence-taking stage regarding the admissibility of any material or item of oral evidence, the trial court can make a note of such objection and mark the objected document tentatively as an exhibit in the case subject to such objections to be decided at the last stage in the final judgment and if the court finds at the final stage that the objection so raised is sustainable, the Judge



or Magistrate can keep such evidence excluded from consideration. The Supreme Court has held that there is no illegality in adopting such a course.

I find that the learned Trial Court, while allowing the document to be exhibited, has observed that the evidentiary value of the exhibited document can be analyzed at the time of final judgment.

In view of the aforesaid discussion, I do not find any illegality in adopting such a course by the learned Trial Court and as such, the impugned order, dated 26.07.2022, passed in Title Suit No. 25 of 1998 does not require any interference by this Court.

This application is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

AFR/
Prabhakar Anand/-

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