

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.504 of 2021

-
1. Dayamanti Devi Wife of Rajendra Prasad Resident of Mohalla-Manpur Pehani, P.O. and P.S.-Buniyadganj, District-Gaya.
 2. Renu Devi Wife of Basudeo Prasad Resident of Mohalla-Manpur Pehani, P.O. and P.S.-Buniyadganj, District-Gaya.
 3. Shila Devi Wife of Sanjay Kumar Resident of Mohalla-Manpur Pehani, P.O. and P.S.-Buniyadganj, District-Gaya.

... .. Petitioners

Versus

Munna Tanti Son of Late Rambali Tanti Resident of Mohalla-Manpur Patwa Toli Pehani, P.O. and P.S.-Buniyadganj, District-Gaya.

... .. Respondent

Appearance :

For the Petitioner/s : Mr.Kumar Dharendra Pratap Singh
For the Respondent/s : Mr.

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

3 26-04-2022 Learned counsel for the petitioners is directed to remove all the defects pointed out by the Stamp Reporter within one month.

Heard learned counsel for the petitioner.

During pendency of Title Suit No. 206 of 2015, the petitioner/defendant filed an application to exhibit 4 documents. (I) Memorandum of Oral gift (II) Original notice dated 16.03.1997 issued by Gaya Municipal Authority in the name of Ganga Tanti regarding new holding. (III) Reply notice vide format gha rule 4(1) of R.T.I. and (IV) Certify copy of demand and collection register of



the year 1977-78 in the name of Ganga Tanti.

The learned trial court exhibited three documents, but refused to exhibit (maukhik danpatra) Memorandum of Oral Gift mentioning that it does not fulfill the mandatory requirement of Section 122 and 123 of the Transfer of Properties Act, 1882 hereinafter to be referred to as 'the Act'. Section 123 of 'the Act' is quoted below.

“Transfer how effected. – For the purpose of making a gift of immovable property, the transfer must be effected by a registered instrument signed by or on behalf of the donor, and attested by at least two witnesses.”

For the purpose of making a gift of moveable property, the transfer may be effected either by a registered instrument signed as aforesaid or by delivery.

Such delivery may be made in the same way as goods sold may be delivered.”

From bare reading of Section 123 of 'the Act' it is clear that a gift deed relating to an immovable property must be in writing and it must be effected by a registered instrument signed by or on behalf of the donor, and attested by at least two witnesses. The document sought to be exhibited does not fulfill the requirements of Section 123 of 'the Act'.

The learned trial court did not commit any error in refusing to mark the exhibit to the oral gift. Accordingly, this civil



miscellaneous petition is dismissed.

Office shall ensure that all defects are removed by the petitioner within the stipulated time provided in para-1 hereinabove, failing which the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

SONALI/-

U			
---	--	--	--

