

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.393 of 2018

In
Miscellaneous Appeal No.1051 of 2016

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1. Shyamnath Gupta Son of Yogendra Prasad Gupta
 2. Chhote Sah Son of late Ramashish Sah Both Resident of Village P.O.P.S.-
Runnisaidpur, District- Sitamarhi.

... .. Petitioner/s

Versus

1. Jagdish Sah S/o late Kari Sah
2. Md. Soyab S/o late Tahir Hussain
3. Md. Raju S/o late Serajudin
4. Pradeep Sah S/o late Jhingur Sah
5. Sitaram Agrawal S/o late Ramkishun Agrawal
6. Shyam Prasad Gupta S/o Jagarnath Prasad Gupta
7. Guruvachan Singh S/o late Rambabu Singh
8. Praveen Kumar Verma S/o late Ganesh Prasad Verma
9. Shankar Prasad Gupta S/o late Magnu Sah
10. Guddu Kumar S/o Ram Sagar Sah
11. Pankaj Kumar S/o Jagdish Sah
12. Ramchandra Sah S/o late Rudal Sah
13. Sanjay Sah S/o late Rajendra Sah
14. Gulam Mohammad Siddiqui S/o Md. Azam Sageer
15. Navin Kumar Verma S/o late Ganesh Prasad Verma
16. Md. Kudus S/o late Isahaque Hussain
17. Ajay Sah S/o late Rajendra Sah
18. Md. Hasim S/o late Gulam Rasool Mian
19. Md. Akhtar S/o late Moti Mian
20. Ramdeo Goswami S/o late Yugeshwar Goswami
21. Bhola Sah S/o late Sitaram Sah
22. Devendra Sah S/o Bindeshwar Sah
23. Ashok Sah S/o late Rudal Sah
24. Sundeshwar Sah S/o late Banshi Sah
25. Md. Mustafa S/o late Isahaque Hussain
26. Md. Rahman Darji S/o late Wasir Darji
27. Satyendra Narayan Gupta S/o Kishori Sah
28. Ritesh Kumar S/o Nawal Prasad
29. Shiv Kishore Sah S/o Bhailal Sah
30. Deochandra Verma S/o late Tribhuwan Lal
31. Chandan Kumar S/o Deochandra Verma
32. Lakhi Sah S/o late Sitaram Sah
33. Shankar Sah S/o late Baidyanath Sah All Resident of Village- Rampur
Runnisaidpur, P.S. P.O.- Runnisaidpur, District- Sitamarhi.



34. Prasenjeet Mehta S/o late Pashupatinath Mehta Resident of Mohalla- Jail Road Chandwara Muzaffarpur, P.S.- Muzaffarpur, District- Muzaffarpur, At Present Resident of Village- Rampur Runnisaipur, P.S. P.S.- Runnisaipur, District- Sitamarhi and at Present Resident of Pokhra Mohalla Hajipur, Vaishali, District- Vaishali.
35. Pankaj Kumar S/o Sitaram Kunwar Resident of Village- Chakshambhu, P.S. Runnisaipur, District- Sitamarhi.
36. Anuradha Mehta S/o late Ravindra Nath Mehta, W/o Balmiki Mundkar Resident of Flat No. 201 Block No. 36 Heritage Gurgaon, Haryana.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Yogendra Mishra, Advocate
Mr. Sanjay Kumar, Adv.
For the Respondent/s : Mr. Ashhar Mustafa,
Mr. Mahendra Thakur,
Mr. Umesh Chandra Verma, Advocates.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

41 01-09-2022 Heard Mr. Yogendra Mishra, learned counsel appearing for petitioner, Shyamnath Gupta and another in I.A. No. 8171/2018, Mr. Mahendra Thakur, learned counsel for Shambhu Mahto, Advocate Clerk, Sitamarhi.

2. The fact of this case is that the Respondents 1st Set herein filed a Title Suit No. 32 of 2012 against the I.A. applicants and the Respondents 2nd Set for a declaration that the sale deeds executed by defendants No.3 and 4 in favour of defendants No. 1 and 2 is illegal, void and not binding upon the plaintiffs and also for declaration of the title and possession of the plaintiffs besides various other reliefs. On service of summons the defendants 1st and 2nd set filed a written statement and also filed counter claim. The plaintiffs filed objection to the



counter claim. The learned Sub Judge, Sitamarhi after hearing the parties, allowed the counter claim and rejected the plaintiffs' objection. The applicant, Shyamnath Gupta upon rumour in Sitamarhi court that he has filed a case in the Hon'ble High Court arising out of order dated 19.04.2016 whereby the counter claim of the I.A. applicant was allowed, came to Patna and inquired about the reality of the case being filed in the name of Shyamnath Gupta i.e., the I.A. applicant. After vigorous attempt the applicant came to know that a case has been filed in the High Court in the name of Shyamnath Gupta and Anr.

3. Learned counsel submits that the I.A. applicant asserts that the present applicant never came earlier to this Hon'ble Court nor had filed any case, nor had sworn any affidavit, nor had given any power to any lawyer, nor they had any cause of action as the order impugned was passed in their favour and the counter claim filed by the I.A. applicant, Shyamnath Gupta was allowed by the trial court. Accordingly, the submission is that somebody at the behest of the plaintiffs practised fraud upon the present applicant and committed forgery before this Court deliberately and intentionally after swearing false affidavit and using false *Vakalatnama* filed the present Civil Miscellaneous case which amounts to committing



forgery, cheating in a judicial proceeding before this Court and accordingly, an inquiry be instituted under Section 340 CrPC against the concerned persons.

4. On the basis of the aforesaid I.A. No. 8171/2018, this Court *vide* its order dated 04.12.2018 directed the Registrar General, Patna High Court to hold an enquiry with regard to the impersonation and genuineness of signature of Shyamnath Gupta and Chhote Sah and submit a report.

5. In pursuance of the enquiry ordered by this Court, learned Registrar General, Patna High Court submitted his enquiry report dated 08.01.2019 and arrived at the finding which is quoted hereinbelow:-

As from the evidence as recorded orally, it has become difficult to specify that actually who tells a lie. The report of expert has been made basis to ascertain this fact. Accordingly, I find that the report of Forensic Science Laboratory, Patna clearly indicates against the conduct of Sri Shambhu Mahto, Advocate Clerk, Sitamarhi Civil Court, and Md. Chand, S/O Md. Sirajuddin. Because of the fact that signature of the petitioner obtained on the separate sheet, Vakalatnama and Affidavit filed with I.A. no. 8171/2018 are similar and signature of Petitioners on the Vakalatnama and affidavit filed earlier with Civil Miscellaneous no. 393/2018 upon which this case stands originated do not tally each other.

“Under the facts above, if the report of FSL is accorded and relied upon, that it can be said that on account of impersonation by Sri Shambhu Mahto and Md. Chand, the application



of this instant case has been filed before this Hon'ble Court and further, if Hon'ble Bench to accept the report of Forensic Science Laboratory, Patna, then they deserve severe appropriate action."

6. From perusal of the enquiry report, it appears that the learned Registrar General after taking into consideration the show-cause filed by the concerned Advocate who filed Civil Miscellaneous Case No. 393/2018 in the name of Shyamlal Gupta, the Oath Commissioner before whom the affidavit was sworn, Shambhu Mahto, Advocate clerk, Civil Court, Sitamarhi and Md. Chand and after recording their evidences and the report of the FSL, Patna has come to the conclusion that appropriate action can be initiated against Shambhu Mahto and Md. Chand.

7. Learned counsel appearing in I.A. for Shyamnath Gupta submits that in view of inquiry report of learned Registrar General a complaint may be directed to be filed against these two persons inasmuch as according to learned counsel the lawyer is not responsible for the forgery committed by the aforesaid two persons, namely, Shambhu Mahto and Md. Chand.

8. Learned counsel appearing for Shambhu Mahto submits that in view of the finding arrived at by the learned



Registrar General in the preliminary enquiry, he does not want to make any submission.

9. Having considered the aforesaid submissions of the parties and taking into consideration the inquiry report of the Registrar General, I direct the Registrar General, Patna High Court or any other Officer of Patna High Court not below the rank of Deputy Registrar authorized by the Registrar General to institute criminal complaint against Shambhu Mahto and Md. Chand under provisions of Section 340 of the CrPC.

10. Learned counsel appearing for the I.A. applicant submits that since Civil Miscellaneous case has wrongly been filed by impersonating the petitioners and they are not aggrieved by the impugned order, accordingly, the Civil Miscellaneous petition may be dismissed by this Court.

11. Interlocutory Application No. 8171/2018 stands allowed.

12. Accordingly, Civil Miscellaneous Case No. 393/2018 is dismissed as not maintainable.

(Anil Kumar Sinha, J)

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