

16.11.2022
Item No.1
Ct. No.7
CHC
(disposed of)

C.O.18 of 2022

Nasir Sekh & ors.

Vs.

Monbhul Sekh alias Samsul Hoque & ors.

Mr. Sourav Sen,
Mr. Uttam Kumar De,
Ms. Jamuna Saha

...for the petitioners

Acceptance of hand writing Commissioner's report is under challenge on two fold grounds, by Mr. Sen, learned advocate appearing for the petitioners.

While assailing the impugned order dated 23rd September, 2020, passed by learned Civil Judge (Junior Division), 2nd Court, at Rampurhat, Birbhum, in Title Suit No.03 of 2009, Mr. Sen submits that the expert, making examination of the thumb impression of the admitted L.T.I. with disputed L.T.I. appearing on two documents, produced by the parties to this case, had no requisite, and sufficient qualification to examine such documents.

Further contention of Mr. Sen is that only one L.T.I. was verified and compared, and L.T.I.s' could not be examined by the expert. The report according to Mr. Sen, has been provisionally accepted by the court below by the impugned order.

It is also alleged by Mr. Sen that irregularities revealed during the cross-examination of hand writing

expert, were brought to the notice of the court below, but the court below was not satisfied with the irregularities revealed in the cross-examination of the hand writing expert's evidence.

Admittedly, the expert opinion was obtained from hand writing expert in connection with a suit for declaration and injunction. After submission of the expert's report, petitioner was given scope to cross-examine the hand writing expert, and the report has been provisionally accepted by the court below.

Upon perusal of the impugned order, it appears that suit has already been set for peremptory hearing. Though, it is contended by Mr. Sen that hand writing expert's report has been improperly accepted by the court below, without resolving the discrepancy identified in the cross-examination of hand writing expert's evidence, even being agitated accordingly by the petitioners before the acceptance of the hand writing expert's report, but when the same has been provisionally accepted by the court below, this Court is of the view that the petitioners may agitate the irregularities, if there be any, at the time of final hearing of the suit, and such points, if raised at all, may be resolved by the court below in accordance with law at the time of final hearing of suit after full trial.

The provisional acceptance of the hand writing expert's report would however, not prevent the court below from finally accepting the same.

Challenge against the acceptance of Hand Writing Expert's report provisionally is, therefore, subject to the materials, disclosed in cross-examination of witnesses during trial, with respect to alleged irregularities of the Hand Writing Expert's report.

With this observation/direction, the revisional application stands disposed of.

Petitioners are directed to make communication of this order to the court below.

Urgent certified photostat copy of this order, if applied for, be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)