

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CIVIL MISCELLANEOUS JURISDICTION No.1207 of 2017**

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Shankar Mahto son of Late Dannu Mahto resident of Mohalla Simali,  
Shahdara Nayatola, Post Mahadev Mill, P.S. Malsalami, District Patna.

... .. Petitioner/s

Versus

1. Lala Mahto son of Late Dannu Mahto resident of Mohalla Simali, Shahdara  
Nayatola, Post Mahadev Mill, P.S. Malsalami, District Patna.
2. Ram Janam Mahto son of Late Dannu Mahto resident of Mohalla Simali,  
Shahdara Nayatola, Post Mahadev Mill, P.S. Malsalami, District Patna.

... .. Respondent/s

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**Appearance :**

|                      |   |                                                                    |
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| For the Petitioner/s | : | Mr. Gajendra Kumar Jha, Advocate<br>Mr. Sushil Kumar Jha, Advocate |
| For the Respondent/s | : | Mr.                                                                |

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**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA  
ORAL JUDGMENT**

**Date : 13-02-2024**

Heard learned counsel for the petitioner and I intend  
to dispose of the matter at the stage of admission itself.

2. The petitioner has challenged the order dated  
01.03.2017, passed by learned Sub-Judge-VI, Patna City in Title  
Suit No. 62 of 2006, whereby and whereunder learned Sub-  
Judge disposed of the application of the petitioner dated  
30.11.2016 for marking the original sale deed as evidence and  
allow the defendant/petitioner to prove original sale deed, which  
was already filed by the petitioner on 13.12.2007, but not



exhibited till date.

3. Learned counsel for the petitioner submits that plaintiff/respondent no.1 filed Title Suit No. 62 of 2006 for partition of suit property. The petitioner is one of the defendants. The petitioner contested the suit disputing the claim of the plaintiff. The petitioner disputed the certified copy of the sale deed produced by the plaintiff/respondent. The petitioner also submitted that the alleged certified copy of the sale deed so relied by the plaintiff/respondent was not correct and it runs contrary to the original sale deed. Thereafter, the petitioner filed original sale deed no. 3060 dated 31.03.1972 on 13.12.2007 and the same was kept on record. After pleadings were complete, the petitioner found that the original sale deed filed in the year 2007 has not been marked as exhibit and thereafter the petitioner filed the application dated 30.11.2016 to allow the petitioner to prove the original sale deed and for exhibiting the same. The plaintiff/respondent no.1 filed rejoinder to the application dated 30.11.2016 on 17.01.2017, stating that since the certified copy of the original sale deed was already exhibited, as such petition filed by the petitioner was fit to be rejected. Learned Trial Court, after hearing the parties, directed the petitioner to file certified copy of the sale deed dated 31.03.1972 so that the same



may be exhibited.

4. Learned counsel for the petitioner further submits that the order of the learned Trial Court is erroneous and has been passed without considering the facts and circumstances. Learned Trial Court failed to appreciate that the suit has to be decided on the basis of original sale deed dated 31.03.1972 in respect of the land in question. Learned Trial Court further failed to take into consideration the fact that certified copy of the sale deed is inconsistent with the recital made in the original sale deed. Since original sale deed was already on record and was filed way back in the year 2007, learned Trial Court ought to have exhibited the same. The plaintiff getting the certified copy of the sale deed marked as exhibit smacks of foul play. Learned counsel further submits that if there is dispute between the original sale deed and its certified copy, only the original sale deed would be relied on. Learned counsel further submits that the impugned order dated 01.03.2017 is not sustainable.

5. Perused the records.

6. Having regard to the facts and circumstances and submissions made on behalf of the petitioner, I find that once doubt arose over genuineness of a document since recital of certified copy of the sale deed is inconsistent with recital of the



original sale deed, learned Trial Court justifiably asked for the certified copy of the sale deed from the defendant/petitioner so that the original copy produced by the petitioner could be compared. Since certified copy is issued by the office of Registration, there is a presumption that the document would be the authentic copy of the original. Same presumption would be lacking in case the document is produced by the parties notwithstanding the fact that the document is stated to be the original copy. At this stage, it is difficult to say that what is the reason for apparent inconsistency and which of the documents is genuine. If the petitioner is sure about his original sale deed, he should not have any problem in producing its certified copy. When the petitioner has been given opportunity to bring on record the certified copy, he should have availed it and should not have rushed to this Court.

7. As such, learned counsel for the petitioner submits that he will get the certified copy of the sale deed and get the same exhibited.

8. As a result, the present petition is disposed of with liberty to the petitioner to approach the learned Trial Court for getting the certified copy of the sale deed to be brought on record and getting the same marked as exhibit in due course and



under the extant provisions of law.

**(Arun Kumar Jha, J)**

Amrendra/-

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| AFR/NAFR          | AFR        |
| CAV DATE          | N/A        |
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