

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.305 of 2020

Lal Muni Devi, wife of Krishnandan Yadav, daughter of Late Rama Nand Yadav, resident of Village- Basant Bigha, Dahia, P.S.- Paliganj, District- Patna

... .. Petitioner/s

Versus

1. Estate of Late Ram Peyari Devi, wife of Late Ramanand Yadav, resident of Village- Haibaspur, P.S.- Bikram District- Patna
2. Smt. Deomanti Devi, Wife of Rajendra Yadav, resident of village- Chiter Bigha, P.S.- Paliganj, District- Patna
3. Usha Kiran Rai, wife of Sri Kripanand Rai, resident of Village-Lakhan Tola, P.S.- Bihta District- Patna at present residing at Village- Haibaspur, P.S.- Bikram, District- Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sunil Srivastava, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 26-02-2024

Heard learned counsel for the petitioner on the point of admission and I intend to dispose of the instant petition at the stage of admission itself.

2. The instant petition has been filed by the petitioner for setting aside the order dated 02.07.2019 passed in Testamentary Suit No.10 of 2010 (Probate Case No.243/2009) by the learned Additional District Judge-VI, Patna whereby and whereunder the petitions dated 21.02.2019 and 18.03.2019 filed by the petitioner under Order 18 Rule 11 read with Section 141 of the Code of Civil Procedure (hereinafter referred to as 'the



Code') have been rejected.

3. The learned counsel for the petitioner submits that the learned trial court has failed to consider that comparison of thumb impression of the testatrix Ram Pyari Devi was necessary for decision of the case as it has been claimed by the petitioner that the Will was forged by the respondent no.3. If the petitioner is not allowed to get the thumb impression of testatrix compared with the certified copy of the sale deed executed by the testatrix, it would cause grave prejudice to the petitioner and there would be miscarriage of justice.

4. From perusal of impugned order, it is apparent that the petitioner has sought comparison of left thumb impression of testatrix Ram Pyari Devi with some certified copy of the sale deed executed by the same testatrix in favour of one Anil Yadav. It is also apparent that the similar petition has already been rejected by the learned 1st Additional District Judge, Patna vide order dated 23.02.2017 and the said order was not challenged and hence, it has attained finality. Thus, on these two grounds, the learned Additional District Judge-VI, Patna has rejected the petitions holding that without any original document, LTI or signature cannot be compared and as the petitioner did not file any revision/appeal against the earlier



order dated 23.02.2017, his present petition was not maintainable.

5. I think the learned trial court rightly rejected the application since once the application with same prayer has already been rejected by a competent court, another application with same prayer is not maintainable.

6. In view of the aforesaid discussions, I do not find the impugned order suffers from any infirmity as the same has been passed after consideration of all the aspects of the matter and, therefore, the same is affirmed.

7. Hence, I do not find any merit in the instant petition and, accordingly, the same is dismissed.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.02.2024
Transmission Date	NA

