

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.611 of 2022

Md. Ali Raja Son of Late Md. Noor Hassan, Resident of Village- Piprahan,
P.S.- Minapur, District- Muzaffarpur.

... .. Petitioner

Versus

1. Md. Mustaque Son of Late Rajauddin, Resident of Village and P.O. Pipraha,
P.S.- Minapur, District - Muzaffarpur.
2. Md. Aftab son of Late Rajauddin, Resident of Village and P.O. Pipraha, P.S.-
Minapur, District - Muzaffarpur.
3. Sheikh Allaiddin son of Late Shekh Najamuddin, Resident of Village and
P.O. Pipraha, P.S.- Minapur, District - Muzaffarpur.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Nachiketa Jha, Advocate
For the Respondent/s	:	Mr. Sunil Kumar Verma, Advocate
		Mr. Suman Kumar Verma, Advocate
		Mr. Anis Kumar, Advocate
		Ms. Ayushi Singh, Advocate
		Ms. Anjali Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 17-10-2024

Heard learned counsels for the respective parties.

02. The present petition has been filed under Article 227 of the Constitution of India on behalf of the petitioner for quashing the order dated 04.07.2022 passed by the learned Additional District Judge-XI, Muzaffarpur in Probate Case No. 48 of 2014, whereby and whereunder the learned Additional District Judge rejected the application of the petitioner dated 12.01.2022 filed to call for report from the concerned authority for comparing the signature of Sheikh Ashraf Ali, the testator of the Will dated 08.07.1968, with his signature over sale deed



dated 16.11.1968 stated to be executed by him.

03. Learned counsel for the petitioner submits that the petitioner is opposite party in the learned trial court and has challenged the Will sought to be probated on behalf of the respondents as the Will is forged and fabricated. Learned counsel further submits that the Will is stated to be executed on 08.07.1968 but the probate case has been filed in the year 2014. The petitioner filed an application for comparing signature of the testator of the Will with a sale deed executed by the testator in favour of one Md. Shahabuddin on 16.11.1968 but the learned trial court rejected the application on the ground that it was not an admitted document. Learned counsel further submits that since it is a registered document, the learned trial court ought to have taken this fact into consideration and thereafter directed for comparison of the signature of the testator of the Will with his signature over sale deed.

04. Learned counsel for the respondents submits that the respondents do not admit the document with which the Will of the testator, Sheikh Ashraf Ali, was sought to be compared. Learned counsel further submits that the copy of the document was produced when the evidence of the opposite parties was being recorded. There is nothing on record to show that how this



document came into existence as nothing was mentioned in objection filed by the petitioner during the probate proceeding. Learned counsel further submits that whether the document is registered or its original copy was produced is also not clear and it appears that some photocopy has been filed and the application was filed without any affidavit.

05. At this stage, learned counsel for the petitioner submits that the present petition may be disposed of with liberty to the petitioner to produce certified copy of the registered sale deed dated 16.11.1968 for comparison of the signature of the testator, Md. Ashraf Ali.

06. Learned counsel for the respondents has no objection to such prayer but to submit that the petitioner must be directed to produce such document within a reasonable time as the matter has been dragging since the year 2014.

07. In the light of submissions of the learned counsels for the parties, the present petition stands disposed of with liberty to the petitioner to produce the certified copy of the sale deed dated 16.11.1968 before the learned trial court which shall proceed to pass afresh order if such document is filed within three months and thereafter, the learned trial court would proceed to dispose of the Probate Case No. 48 of 2014 within



next three months from the date of receipt/production of a copy of this order. The parties are directed to co-operate in the proceeding before the learned trial court.

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18-10-2024
Transmission Date	NA

