

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CIVIL MISCELLANEOUS JURISDICTION No.970 of 2017**

---

1. Devi Thakur @ Devilal Thakur Son of Late Bishuni Thakur.
- 2.1. Sumitra Devi, Wife of late Shiv Shankar Thakur Resident of Chakmehsi, P.O. Purshottampur, P.S. Maniyari, District- Muzaffarpur.
- 2.2. Devanand Thakur, Son of late ShivShankar Thakur, Resident of Chakmehsi, P.O. Purshottampur, P.S. Maniyari, District- Muzaffarpur.
- 2.3. Anil Thakur, Son of late Shivshankar Thakur, Resident of Chakmehsi, P.O. Purshottampur, P.S. Maniyari, District- Muzaffarpur.
- 2.4. Rajesh Kumar, Son of late ShivShankar Thakur, Resident of Chakmehsi, P.O. Purshottampur, P.S. Maniyari, District- Muzaffarpur.
- 2.5. Sharmila Devi, D/o of late Shiv Shankar Thakur and Wife of Kamleshwar Thakur, Resident of Village- Manpur, P.O. Anirudh Belsar, P.S.-O.P. Belsar, District-Vaishali.
- 2.6. Babita Devi, D/o of late Shiv Shankar Thakur and Wife of late Devnarayan Thakur, Resident of Village-Goraiya, P.O. - Goraiyadih, P.S. Kudhani, District-Muzaffarpur, Bihar.
- 2.7. Anjani Devi, D/o of late Shiv Shankar Thakur and Wife of Nawal Kishore Thakur, Resident of Village- Belsar, P.O. Anirudh Belsar, P.S.-O.P. Belsar, District- Vaishali, Bihar.
3. Ram Ekbal Thakur, Both 2 to 4 Son of Late Paltu Thakur.
- 4.1. Malti Devi, W/o of late Mahesh Thakur, Resident of Chakmehsi, P.O. Purshottampur, P.S. Maniyari, District- Muzaffarpur.
- 4.2. Nankishore Thakur, Son of late Mahesh Thakur, Resident of Chakmehsi, P.O. Purshottampur, P.S. Maniyari, District- Muzaffarpur.
- 4.3. Ajay Kumar, Son of late Mahesh Thakur, Resident of Chakmehsi, P.O. Purshottampur, P.S. Maniyari, District- Muzaffarpur.
- 4.4. Arvind Kumar, Son of late Mahesh Thakur, Resident of Chakmehsi, P.O. Purshottampur, P.S. Maniyari, District- Muzaffarpur.
- 4.5. Sanjay Thakur, Son of late Mahesh Thakur, Resident of Chakmehsi, P.O. Purshottampur, P.S. Maniyari, District- Muzaffarpur.
- 4.6. Punam Devi, D/o of late Mahesh Thakur and Wife of Bhola Thakur, Resident of Village- Sakrabaji, P.S. Sakra, District-Muzaffarpur, Bihar.
5. Tulsi Thakur.
6. Suresh Thakur.
7. Arun Thakur, Both 5 to 8 son of Late Mahabir Thakur, All resident of Village- Chakmehsi, P.O.- Purshottampur, P.S.- Maniyari, District- Muzaffarpur.

... .. Petitioner/s

Versus

- 1.1. Arjun Rai, Son of late Rajendra Rai, Resident of Chakmehsi, P.O.



Purshottampur, P.S. Maniyari, District- Muzaffarpur.

- 1.2. Bhujbal Rai, Son of late Rajendra Rai, Resident of Chakmehsi, P.O. Purshottampur, P.S. Maniyari, District- Muzaffarpur.
2. Mostt. Sia Devi, Wife of Late Sadhu Sharan Rai.
3. Smt. Urmila Devi, Daughter of Late Sadhu Sharan Rai, All resident of Village- Chakmehsi, P.O.- Purshottampur, P.S.- Maniyari, District- Muzaffarpur.

... .. Respondent/s

---

---

**Appearance :**

|                      |   |                                 |
|----------------------|---|---------------------------------|
| For the Petitioner/s | : | Mr.Krishna Kant Singh, Advocate |
|                      |   | Mr. Anil Kumar Sinha, Advocate  |
| For the Respondent/s | : | Mr.Girish Chandra Jha, Advocate |
|                      |   | Mr. Ashish, Advocate            |
|                      |   | Mrs. Priyanka, Advocate         |

---

---

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA**  
**ORAL JUDGMENT**  
**Date : 31-07-2025**

Heard learned counsel for the parties.

2. The petitioners are aggrieved by the order dated 23.01.20217 passed by learned Munsif West, Muzaffarpur in Title Suit No. 36 of 2007, whereby and whereunder the petition filed by the plaintiffs/petitioners for taking on record and marking exhibit a certified copy of registered patta has been rejected.

3. Learned counsel for the petitioners submits that the document was filed while the examination of plaintiffs has been going on and plaintiff witness no. 3 was examined and discharged. The document was not filed belatedly. Learned counsel further submits that the learned trial court has rejected the petition only on the ground that the document was not a



public document and further directed the plaintiffs to take steps in accordance with law for getting the said document exhibited. Learned counsel further submits that, however, it has been settled that the certified copy of registered document is a public document and therefore, the impugned order has been passed in wrong appreciation of law. Learned counsel further submits that whatever may be the evidentiary value of the document sought to be exhibited, merely marking exhibit does not mean that it is proved and the plaintiffs have to take further steps for proving the said document in accordance with law. Thus, the impugned order is not sustainable and the same may be set aside.

4. The contention of learned counsel for the petitioners has been vehemently opposed by the learned counsel appearing on behalf of defendants/respondents 1st set. Learned counsel submits that the registered patta is not a public document and the learned trial court has rightly passed the order. Learned counsel further submits that there is no infirmity in the impugned order.

5. The dispute in the present petition is covered by two decisions of this Court in the case of ***Ram Briksha Singh & Ors. Vs. Ramsharay Singh & Ors. (Civil Misc. No. 1824 of 2018)*** and ***Abdul Rashid Vs. Iftakhar Hussain @***



**Dablu & Ors. (Civil Misc. No. 1651 of 2019).** This Court in the case of **Ram Briksha Singh** (*supra*) in paragraph 7, 8, 9 and 10 held as under:-

*“7. Section 75 of the Evidence Act provides that all other documents are private. Now a sale deed is no doubt a private document but whether its certified copy would come under the category of public records kept in any state of private document? The Division Bench of Madhya Pradesh High Court in the case of **Smt. Rekha Rana & Ors. Vs. Smt. Ratneshree Jain**, reported in **AIR 2006 MP 107** has held the proposition that a certified copy of a sale deed is a public document or a registered sale deed is a public document are erroneous. It has further been held that a registered document (deed of sale etc.) is not a public document. It is a private document. Further, a certified copy of a registered document, copied from Book and issued by the Registering Officer, is neither a public document, nor a certified copy of a private document, but is a certified copy of a public document. In other words, a certified*



*copy of a registered document is a certified copy of public document. The basis for saying so lies in the fact that when a sale deed is registered before the Registering Authority, necessary entries are maintained in the book kept at the Registration Office and, thus, it is a record 'kept in a state of private documents' and, therefore, a public document. When a person applies for the certified copy of document registered in the office which is entered/filed in Book 1, a certified copy of document as copies/filed in Book 1 is furnished to the applicant. Such certified copy of any entries in Book 1 is a certified copy of a public document. But such certified copy of registered document extracted from Book 1 is not itself a public document. It is really a true copy of a copy (copy of original deed entered in Book 1). The discussion has been made by the Division Bench of the Madhya Pradesh High Court considering the provisions of the Registration Act, 1908, specially Sections 51 and 57. Thus, it has been concluded that a certified copy of a registered document issued by*



*Registering Officer, by copying from Book 1, is a certified copy of a public document. Similar question came up before the Hon'ble Supreme Court in the case of **Appaiya Vs. Andimuthu @ Thangapandi & Ors., [Civil Appeal No. 14630 of 2015 {@ SLP (C) No. 10013 of 2015}}**, wherein the Hon'ble Supreme Court has observed in paragraph no. 29, which reads as under:-*

*“29. Having regard to all the aforesaid circumstances and in the light of the various provisions of the Evidence Act mentioned hereinbefore we will firstly consider the question whether the appellant/plaintiff had succeeded in proving the contents of Ext.A1. Going by Section 65(e) when the original of a document is a public document within the meaning of Section 74, secondary evidence relating its original viz., as to its existence, condition or contents may be given by producing its certified copy. Ext.A1, indisputably is the certified copy of sale deed No. 1209/1928 dated 27.08.1928 of SRO Andipatti. In terms of Section 74(2) of the Evidence Act, its original falls*



*within the definition of public document and there is no case that it is not certified in the manner provided under the Evidence Act. As noticed hereinbefore, the sole objection is that what was produced as Ext.A1 is only a certified copy of the sale deed and its original was not produced in evidence. The hollowness and unsustainability of the said objection would be revealed on application of the relevant provisions under the Evidence Act and the Registration Act, 1908. It is in this regard that Section 77 and 79 of the Evidence Act, as extracted earlier, assume relevance. Section 77 provides for the production of certified copy of a public document as secondary evidence in proof of contents of its original. Section 79 is the provision for presumption as to the genuineness of certified copies provided the existence of a law declaring certified copy of a document of such nature to be admissible as evidence. When that be the position under the aforesaid provisions, taking note of the fact that the document in question is a registered sale deed, falling within the definition of a public*



*document, the question is whether there exists any law declaring such certified copy of a document as admissible in evidence for the purpose of proving the contents of its original document. Sub-section (5) of Section 57 of the Registration Act is the relevant provision that provides that certified copy given under Section 57 of the Registration Act shall be admissible for the purpose of proving the contents of its original document. In this context it is to be noted that certified copy issued thereunder is not a copy of the original document, but is a copy of the registration entry which is itself a copy of the original and is a public document under Section 74(2) of the Evidence Act and Sub-section (5) thereof, makes it admissible in evidence for proving the contents of its original*

.....  
.....  
.....”

*(Underlined for emphasis)*

*8. Now coming back to the dispute in the present case, in the light of discussion made hereinbefore, it could*



*be safely concluded that the certified copy of a registered sale deed would fall under the category of public document under Section 74 (2) of the Evidence Act.*

*9. Last question which remains is whether this document could be marked an exhibit waiving the requirement of formal proof. Section 76 of the Evidence Act empowers an officer having the custody of a public document to give a certified copy at the Registrar's Office keeps a public record of all sale deeds registered in that office. The definition of public document under Section 74 of the Evidence Act takes in public records kept in any state of private document. A certified copy is therefore admissible in evidence both under Section 65 (e) and 65 (f) of the Evidence Act. The certified copy is, therefore, secondary evidence of public record of sale deed kept in the office of the Registrar. Invoking Section 57(5) of the Registration Act, the said copy becomes admissible for the purpose of proving the contents of the original document itself. Therefore, the certified copy becomes*



*admissible in evidence but proof of execution could not be dispensed with.*

*10. Section 65 (e) and Section 77 of the Evidence Act read as under:-*

*“(a).....*

*(b).....*

*(c).....*

*(d).....*

*(e) when the original is a public document within the meaning of section 74;*

*(f).....*

*(g).....*

*77. Proof of documents by production of certified copies.—Such certified copies may be produced in proof of the contents of the public documents or parts of the public documents of which they purport to be copies.”*

*At the same time, Section 57 (5) of the Registration Act reads as under:-*

*“57 (5) All copies given under this section shall be signed and sealed by the registering officer; and shall be admissible for the purpose of proving the contents of the original documents.””*

6. Evidently, marking of the document as exhibit of certified copy of registered document does not absolve the



plaintiffs from proving the execution of the said document in accordance with law. Therefore, in the light of above noted decision, I do not think the impugned order could be sustained. Hence, the order dated 23.01.2017 is set aside and petition dated 11.05.2016 is allowed.

7. Accordingly, the present petition is allowed.

**(Arun Kumar Jha, J)**

DKS/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 01.08.2025 |
| Transmission Date | NA         |

