

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.2156 of 2017

1. Bina Devi D/o Adhiklal Ray, W/o Arjun Yadav, Resident of village Baraki Simraha, P.S.- Alour, PIN 848203, District- Khagaria.
2. Dharmatma Devi, D/o Adhiklal Ray, W/o Singeshwar Yadav, Resident of village- Sonama, P.O.- Sonama, P.S.- Bithan, District- Samastipur.

... .. Petitioner/s

Versus

1. Upendra Ray S/o Late Subalal Ray. Resident of Mohalla- Rambhadra, P.O.- Hajipur, P.S.- Hajipur Town, District- Vaishali.
2. Pramhans Yadav, S/o Adhiklal Yadav, Resident of Village and P.O.- Sodpur, P.S- Sahpurkamal, District- Begusarai.
3. Radhika Devi @ Radho Devi, D/o Adhiklal Ray, W/o Mahendra Yadav, Resident of Village- Pharpur, P.S.- Madani Chanki, PIN- 8011106, District- Lakhisarai.
4. Nirmala Devi, D/o Adhiklal Ray, W/o Bisheshwar Yadav, Resident of Village and P.O.- Narpa, PIN- 848207, P.S.- Bithan, District- Samastipur.
5. Sudama Devi @ Sudami Devi, D/o Adhiklal Ray, W/o Om Prakash Yadav, Resident of Village and P.O. Narpa, PIN- 848207, P.S.- Bithan, District- Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Satya Prakash Sinha, Adv.
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 25-07-2025 Heard learned counsel for the petitioners at the stage of admission.

2. Petitioners are aggrieved by the order dated 25.11.2016 passed by the learned Additional Sessions Judge- VIII, Vaishali at Hajipur in Probate Case No. 32 of 2015 whereby and whereunder an application of the probate petitioner/respondent no.1 for comparison of signature of the testator Jangilal Ray on Will dated 15.11.1977 with an admitted



registered document dated 17.04.1979 has been allowed.

3. Shorn of unnecessary details, the facts of the case are that the parties are descendants of one Madho Ray who died leaving behind two sons, namely, Ramdhari Ray and Jangilal Ray. Jangilal Ray died on 18.11.1996 leaving behind his daughter Sarswati Devi who was married with Adhiklal Ray. Out of this wedlock, there are one son, namely Pramhans Ray, respondent no.2 and five daughters. The petitioners are two of the daughters and other three daughters are respondent nos. 3 to 5. Ramdhari Ray died leaving behind a son Subalal Ray who died leaving behind a son Upendra Ray. Jangilal Ray executed a registered deed of Will dated 15.11.1997 in favour of his nephew Subalal Ray bequeathing his landed property described in Schedule-I of the probate petition filed by the respondent no.1. Petitioners and respondent nos. 3 to 5 filed their objections on 19.02.2016 to the probate petition dated 29.07.2015 claiming that the petition was not maintainable and the same was time barred. Similarly, Pramhans Ray also filed his objection on 05.08.2016. Upendra Ray, respondent no.1 and the probate petitioner filed a petition on 16.06.2016 to get the signature of Jangilal Ray verified by expert from an admitted registered deed dated 17.04.1979 written in favour of one Rama Ray by Jangilal



Ray. The learned Additional District-VIII, Vaishali at Hajipur, vide order dated 25.11.2016 allowed the application directing the petitioner/respondent no.1 to deposit Rs. 1,000/- for taking service of expert for verification of signature of Jangilal Ray with an admitted registered deed dated 17.04.1979 written in favour of one Ram Ray. The said order is under challenge before this Court.

4. Learned counsel for the petitioners submits that the impugned order is not sustainable as the same has been passed without consideration of fact. Execution of Will has not been admitted by the petitioners and respondent nos. 2 to 5 and they have claimed it to be forged and fabricated document. The petitioners and respondent nos. 2 to 5 have been availing the right, title and possession over the property mentioned in the Will and there was no occasion for their maternal grandfather to execute the Will in favour of father of respondent no.1. Thus, learned counsel submits that the impugned order is not sustainable and the same be set aside.

5. Perused the record.

6. From perusal of record it appears that during the probate proceeding, an application has been filed by the probate petitioner for comparing the signature and thumb impression of



testator Jangilal Ray on the Will with a registered document which is a sale deed dated 17.04.1979 executed in favour of one Rama Ray by the testator and the said document is stated to be an admitted document. If there is dispute over execution of the Will and the objectors have taken a plea that the Will is a forged and fabricated document, it is proper that the handwriting, signature and thumb impression of the testator be compared with some admitted document which in the present case is a registered sale deed executed within two years of execution of the Will. Therefore, the learned trial court has rightly allowed the application dated 16.06.2016 filed by the petitioner/respondent no.1. Hence, I do not find any infirmity in the impugned order dated 25.11.2016 passed by the learned Additional Sessions Judge-VIII, Vaishali at Hajipur in Probate Case No. 32 of 2015 and the same is affirmed.

7. Accordingly, the present is dismissed at the stage of admission itself.

(Arun Kumar Jha, J)

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