

Sl.3-4
19.08.2025
Court No.6
BP

C.O. 2728 of 2025

With

C.O. 2725 of 2025

Basab Kumar Mandal & Ors.

-versus-

Tapas Kumar Mandal alias
Dev Kumar Mandal & Ors.

Mr. Debasish Roy, Sr. Advocate

Mr. Bikram Banerjee

Mr. Sudipta Dasgupta

Mr. Baibhav Roy

... for the petitioners

Mr. Tanmoy Kukherjee

Mr. Sunit Kumar Roy

..for the opposite parties

These matters were mentioned by Mr. Tanmoy Mukherjee, learned advocate appearing for the plaintiffs/opposite parties on the ground of urgency.

Considering the urgency pleaded these matters were directed to appear under the heading "To Be Mentioned".

Today, when these matters are taken up the learned advocates for the respective parties advanced their argument on the merits of the civil revisional application.

In view thereof, these matters are treated to be as on the day's list with the consent of the respective parties.

C.O. 2728 of 2025 is at the instance of the defendant nos. 2 to 4 and is directed against an order being no. 69 dated 27th February, 2025 passed by the

learned Civil Judge (Junior Division), Additional Court, Jangipur, Murshidabad in Title Suit No. 34 of 2019.

C.O. 2725 of 2025 is at the instance of the defendant nos. 2 to 4 and is directed against an order being no. 27 dated 27th February, 2025 passed by the learned Civil Judge (Junior Division), Additional Court, Jangipur, Murshidabad in Title Suit No. 35 of 2019.

Title Suit No. 34 of 2019 has been filed by the opposite party no.1 in C.O. 2728 of 2025. The plaintiff in Title Suit No. 34 of 2019 is the husband of the original plaintiff in Title Suit No. 35 of 2019. During the pendency of Title Suit No. 35 of 2019 the wife died and upon her death, her husband i.e. the opposite party no.1 was duly substituted in place and stead of the deceased plaintiff.

By the orders impugned the prayer for appointment of a handwriting expert was allowed.

Mr. Roy, learned senior advocate appearing for the petitioners submits that the document containing the disputed signature is yet to be tendered in evidence. He, therefore, submits that at the present moment the opposite party could not have prayed for appointment of a handwriting expert.

Mr. Mukherjee, learned advocate appearing for the opposite parties submits that since the petitioners raised an objection in the written objection to the injunction application as well as in the written statement stating that

the opposite parties have not yet taken steps for comparison of the signature of the executants in the deeds in question, the application for appointment of a handwriting expert was made.

Heard the learned advocates for the respective parties and perused the materials placed.

The opposite party no.1 and his predecessor-in-title filed separate suits for declaration of title and for a further declaration that the sale deed being no. 638/ 2017 is a product of fraud and false personification and, therefore, the same is void ab initio and for permanent injunction. It is not in dispute that the disputed sale deed has not yet been tendered in evidence. It is well settled that unless the documents are tendered in evidence the prayer for comparison of the disputed signatures with the admitted one cannot be directed by the Court. This Court holds that the prayer for appointment of handwriting expert was premature and, therefore, the same could not have been allowed at this stage.

For such reasons, this Court is inclined to interfere with the order impugned in the aforesaid civil revisional applications. Accordingly the order impugned in the aforesaid civil revisional applications stands set aside.

It is, however, made clear that this order shall not prevent the opposite parties from taking out an appropriate application for appointment of an expert at the appropriate stage, if so advised. If such an application

is taken out, the learned trial judge shall consider the same at the appropriate stage after giving an opportunity of hearing to the respective parties.

With the above observations, C.O. 2728 of 2025 and C.O. 2725 of 2025 stand allowed.

There shall be, however, no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)