

Sl.7
21.08.2025
Court No.6
BP

C.O. 2964 of 2025

Smt. Kanika Biswas
Vs.
Ashalata Biswas & Ors.

Mr. Soumyadeep Biswas
..for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the pre-emptee in a proceeding under Section 8 and 9 of the West Bengal Land Reforms Act, 1955 and is directed against an order being no.11 dated 27th March, 2025 passed by the learned Civil Judge (Junior Division), 1st Court, Krishnagar, Nadia (in charge) in Misc. Pre-emption Case No. 28 of 2023.

By the order impugned the application filed by the petitioner herein praying for appointment of a handwriting expert for the purpose of comparing the signature of the opposite party no.1 in the pre-emption application along with the admitted signature of the opposite party no.1 stood rejected. In an identical pre-emption case filed by the opposite parties herein against another pre-emptee a similar question arose and this Court by an order dated 12th August, 2025 in C.O. 2931 of 2025 dismissed the said civil revisional application with the following observations:

“3. The learned advocate appearing on behalf of the petitioner submits that the learned trial Judge rejected the application for appointment of the handwriting expert only on the ground that the Court after comparing the signature of Ashalata Biswas, that is the opposite party no.1 as appearing in the preemption application with that of a specimen signature taken in Court, found that both the signatures are of the same and identical person.

4. Mr. Biswas, learned advocate appearing for the petitioner submits that though the Court has the power to use its own eyes for the purpose of comparing the disputed signature with the admitted signature, but it is always prudent on the part of the Court to appoint an expert in the field for the purpose of comparison of the disputed signature with the admitted one. In support of such contention he has placed reliance upon Section 45 of the Evidence Act.

5. Mr. Biswas also relied on the decision of the Hon'ble Supreme Court in the case of State (Delhi Administration) Vs. Pali Ram reported in AIR 1979 SC 14 and a decision of the Coordinate Bench in the case of Joydeb Dutta Vs. Atin Law reported in 2016 (3) CalLJ 382, in support of his contention that in case a dispute is raised with regard to a signature, comparison is to be made by the handwriting expert and not by the Court in exercise of power under Section 73 of the Evidence Act.

6. The opposite party no.1 to 6 herein, filed an application under Sections 8 and 9 of the West Bengal Land Reforms Act, 1955 which is registered as (Misc. Preemption) Case No.29 of 2023. Petitioner filed an application praying for appointment of a handwriting expert for the purpose of comparing the signature of Ashalata Biswas, that is the opposite party no.1, who is the petitioner no.1 in the preemption case with the specimen signature of the opposite party no.1 to be taken in Court for the purpose of ascertaining as to whether the signature of the opposite party no.1 as appearing in the preemption application is that of the opposite party no.1.

7. The ground on which such an application for appointment of a handwriting expert was filed is that the petitioner believes that Ashalata Biswas did not put her signature on the preemption application and she did not file such application. The reasons for such belief is that the opposite party no.1 used to regularly visit the house of the petitioner and upon enquiry, she would divulge that she had not filed any application for preemption. The application for appointment of a handwriting expert was filed on the aforesaid ground.

8. The application for appointment of a handwriting expert was contested by the opposite parties by filing a written objection thereto. It has been specifically stated in the said application that Ashalata Biswas along with her sons, that is the opposite parties no.2 to 5 filed the preemption application and all of them signed in the application under Section 8 of the West Bengal Land Reforms Act upon depositing the entire consideration money before the learned trial Judge. It was specifically denied that the opposite party no.1 used to regularly go to the house of the petitioner herein and upon being asked the opposite party no.1 told the petitioner that she did not file any case before the Court or that the signature of the opposite party no.1 is questionable.

9. It is not in dispute that apart from the opposite party no.1, the opposite parties no.2 to 5 also joined the opposite party no.1 in filing the application for preemption. The petitioner has also not disputed that the other opposite parties filed the application for preemption.

10. Since a dispute was raised with regard to the signature of the opposite party no.1 herein, the opposite party no.1 was directed to be present in Court and she was asked as to whether she had filed the preemption case also whether she has signed on the preemption application.

11. The learned trial Judge has specifically recorded in the impugned order that the opposite party no.1 never denied her signature on the plaint. Such finding of fact recorded in the impugned order could not be controverted by the learned advocate appearing for the petitioner before this Court. The learned trial Judge directed the opposite party no.1 to put her signature upon a blank paper and thereafter compared the same with the signature of the opposite party no.1 as appearing in the preemption application. The learned trial Judge after making a comparison of the signatures found that the signature of the opposite party no.1 in the plaint and admitted signature are similar and no discrepancy is found in both the signatures.

12. The learned trial Judge further recorded that the application for handwriting expert was filed by the petitioner herein at the time of peremptory hearing only for the purpose of delaying the trial of the instant suit. It was further recorded by the learned trial Judge in the impugned order that the opposite party no.1 is a lady aged about 79 years who cannot walk properly. For all the reasons as aforesaid this Court holds that the learned trial Judge was right in rejecting the application praying for appointment of the handwriting expert.

13. In Pali Ram (supra), one Tekchand stated that Exhibit-21/F was in Pali Ram's handwriting when he made statement before the police. In his statement during committed proceedings, he resiled from it. It was held that the said document is undoubtedly a vital link and has an important bearing on the case as Pali Ram himself appears to be an accused. In the peculiar facts situation of that case it was held that although there is no legal bar to the Judge using his own eyes to compare the disputed writing with the admitted writing even without the aid of the evidence of any handwriting expert, the Judge should as a matter of prudence and caution hesitate to base his finding with regard to the identity of a handwriting which forms the sheet-anchor of the prosecution case against a person accused of an offence solely on comparison made by himself. It was further held that it is therefore not advisable that a Judge should take upon himself the task of comparing the admitted writing with the disputed one to find out whether the two match with each other and the prudent course is to obtain the opinion and assistance of an expert.

14. The said decision being distinguishable on facts cannot come to the aid of the petitioner. In Joydeb Dutta (supra), the defendant in his written statement in paragraph 2(c) has specifically stated that the signature appearing in the forged part which resembles that of the defendant is not his signature. The defendant had admitted that there is similarity in the signature appearing on the left side bottom of Exhibit-1, but however, the defendant in his written statement as well as in his affidavit-in-chief has stated about the resembles of the signature but did not state anything about the dissimilarities. On such facts, the Coordinate Bench held that it was the duty of the Court to appoint handwriting expert the disputed signature of the petitioner.

15. The said decision is also distinguishable on facts and the same cannot be applied to the case at hand.

16. For all the reasons as aforesaid, this Court is not inclined to interfere with the order impugned."

The said decision shall squarely apply to the fact of the case on hand.

In view thereof, C.O. 2964 of 2025 stands dismissed.

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.)