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Location: OHC, Cuttack
Date: 15-Dec-2025 17:24:42

IN THE HIGH COURT OF ORISSA AT CUTTACK
CMP No.812 of 2025

Pranab Kishore Mohanty .... ***Petitioner***

Mr. B.R. Behera, Advocate

-versus-

Nirod Kishore Mohanty and Others .... ***Opposite Parties***

Mr. T.K. Mishra, counsel for O.P. No.1

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
15.12.2025

Order No.

06. 1. Heard Mr. B.R. Behera, learned counsel for the petitioner and Mr. T.K. Mishra, learned counsel for opposite party no.1.

2. Present CMP is directed against order dated 25th February, 2025 of learned Senior Civil Judge, 1st Court, Cuttack passed in Test Case No.03 of 2013 (Probate) (Intest Case No.10 of 2019), wherein the prayer of present petitioner under Order 26 Rule 10-A has been rejected.

3. Present opposite party no.1 claiming to be the legatee in respect of Will dated 1st December, 1986 filed the aforesaid case for probate of the same, where present petitioner is opposite party no.11. After examination of P.W.3, who is the alleged legatee, a dispute arose with regard to presence of words “my signature” in the right top corner in both the pages of the Will (Ext.1). P.W.3 denied existence of such words at the right top corner of both pages of the Will and therefore

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opposite party no.11 prayed for examination of the same through scientific investigation by the handwriting expert.

4. A certified copy of the Will is produced before this court also to demonstrate the fact regarding existence of such words at the top corner of both pages of the Will. The same is kept on record.

5. It is true that the parties do not dispute the signature of the testator or attesting witnesses in the Will itself. But according to the contentions of the opposite parties including opposite party no.11 (present petitioner) that the Will, which is written in Odia, has been manufactured. Learned trial court by holding that when the signature of the testator or the witnesses are not disputed on the Will, in order to examine presence of words "my signature", the Will is not required to be investigated scientifically by any expert.

6. The copy of the Will as produced before this court is clearly visible. Without giving any opinion at the present stage by this court on the merit of contention of the petitioner regarding presence of such words in the Will as contended by him, it needs to be observed here that what is visible to the naked eye of the court need not be confirmed by the scientific expert only because the adverse party is denying presence of the same. Presence of a fact on the Will as contended by the party if is clearly visible by the court, then there is no necessity to take recourse for scientific investigation. Had it been the opinion of the court that the presence of such words is either illegible or doubtful requiring scientific investigation of the same, then the matter would have been different. So what is contended by the present petitioner that since opposite party no.3 is denying presence of such words on the Will, the same is required to be

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investigated scientifically in order to satisfy presence of same, cannot be said sustainable to send the document for scientific investigation. As such, no merit is seen in the present challenge to the impugned order.

7. The CMP is accordingly disposed of.

(B.P. Routray)
Judge

M.K.Panda