

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1152 of 2018**

Jay Prakash Sinha Son of Late Parmeshwar Dayal, Resident of Mohalla-
Murarpur, P.S.- Laheri, Bihar Sharif, District- Nalanda.

... .. Petitioner/s

Versus

1. Aishwarya Devi Rastogi Wife of Late Prakash Chandra Rastogi,
2. Rahul Kumar Rastogi, Son of Late Prakash Chandra Rastogi, Both resident of Mohalla- Chaukhandipar, P.O. and P.S.- Bihar Sharif, District- Nalanda.
3. Ganesh Chandra Rastogi, Son of Late Sushil Kumar Rastogi,
4. Sanjay Kumar Rastogi, Son of Late Sushil Kumar Rastogi,
5. Abhishek Kumar Rastogi, Son of Late Sushil Kumar Rastogi,
6. Laxmi Rastogi, Wife of Late Sushil Kumar Rastogi, All resident of Mohalla- Chaukhandipar, P.O. and P.S.- Bihar Sharif, District- Nalanda.
7. Dr. Siya Sharan Prasad, S/o Thakuri Mahto, Resident of Village- Hafichak, P.S.- Silaw, District- Nalanda, at present resident of Mohalla- Ram Chandrapur Kuswaha Colony, P.S.- Bihar Sharif, Present P.S.- Laheri Murarpur, District- Nalanda.
8. Om Prakash Verma, Son of Late Parmeshwar Dayal,
9. Birendra Kumar Verma, Son of Late Parmeshwar Dayal, Both resident of Mohalla- Murarpur, P.S.- Laheri, Bihar Sharif, District- Nalanda.
10. Smt. Dayamanti Devi, Wife of Sri Radha Krishna Prasad, Resident of Village- Moriyawan, P.O.- Hazrat Sai, P.S.- Dhanarua, District- Patna.
11. Smt. Veena Devi, Wife of Shri Surendra Prasad, Resident of Village- Tarar, P.O.- Tarar, P.S.- Daud Nagar, District- Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Bhupendra Kumar Verma
For the Respondent/s : Mr.

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER**

3 25-08-2022 Heard learned Counsel for the petitioner.

The suit is of the year 1990. The petitioner is aggrieved by orders, dated 19.02.2018 and 09.04.2018, passed by learned Munsif, Bihar Sharif, in Title Suit No. 68 of 1990, filed for specific performance, by which the prayer of the



petitioner for verification/examination of the signature of the original defendant no. 1, Late Sushil Kumar Rastogi, on the agreement for sale, through an expert has been dismissed on the ground that the same have been made in order to delay the disposal of the suit.

I have perused the impugned order. It appears that the suit has been filed in the year 1990. The petitioner is the plaintiff in the suit. On 08.11.2017, a petition was filed by the petitioner for verification/examination of the signature of the original defendant no. 1, Late Sushil Kumar Rastogi, put by him on the agreement for sale with the signature of Sushil Kumar Rastogi upon the sale deed marked as Exhibits 3 and 4. From the impugned order, dated 19.02.2018, it appears that the original defendant no. 1, Late Sushil Kumar Rastogi, was examined as defendant witness and he was cross-examined on 05.08.2000, in which he had categorically stated that the said agreement for sale, dated 05.08.1989, has not been executed by him. It further appears that on 05.08.2002, the signature of the original defendant no. 1, Late Sushil Kumar Rastogi, was taken in front of the Sheristedar for the purpose of its examination through expert, but no further step was taken on the part of the plaintiff for about fifteen years and after lapse of fifteen years,



on 08.11.2017, a petition has been filed for verification of the signature through expert. It further appears that the suit was remanded by the appellate court and after the remand, some of the witnesses were examined and cross-examined and some documents were also exhibited and the argument of the defendant was heard in part, but on that point also, no step was taken by the plaintiff. The learned Trial Court, after taking into consideration the totality of the circumstances, has come to the conclusion that the petition, dated 08.11.2017, was filed for examination of the signature through expert with an intention to delay the disposal of the suit inasmuch as the suit is on the verge of final disposal. Accordingly, the aforesaid petition was rejected by the learned Trial Court by the impugned order, dated 19.02.2018.

Again, similar petition was filed by the petitioner-plaintiff on 13.03.2018, which also got dismissed on the ground that successive petition cannot be entertained once the earlier petition for verification through expert has been dismissed on 19.02.2018.

I have gone through the impugned order and the reasons assigned by the learned Trial Court for dismissing the prayer of the petitioner for verification/examination of the



signature of the original defendant no. 1 through the expert. I am of the view that there is no infirmity in the impugned order. The learned Trial Court has rightly come to the conclusion that in order to delay the disposal of the suit, successive petitions have been filed by the plaintiff on the verge of the final disposal of the suit.

This application is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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