

**T.S. 162 of 1994**

14.03.2024- Representation on behalf of plaintiffs and defendants no. 7 and 8 has been filed.

Case record is put up for passing order on petition, dated 23.08.2022, of the defendants no. 7 and 8 on which rejoinder, dated 15.04.2023, has been filed by the plaintiffs. Both the sides have been heard on the point.

Ld. Advocate for the defendants no. 7 and 8 has submitted that these defendants came to know about this partition suit against them only on 13.08.2022. The father of these defendants (who himself is defendant no 6 in the instant suit) is poor and illiterate person and he can put only thumb impression. When these defendants came to know about this suit, they taken out the file of the suit from his father and consulted their advocate who after going through entire facts of this case found that a joint written statement has been filed on behalf of these defendant-petitioners and their father. He submitted further that, these defendant-petitioners have never appeared nor filed any written statement or Vakalatnama in this case. Defendant no. 8 Dinesh Yadav puts his signature over any paper and he have never put any thumb impression on written statement or Vakalatnama of this case. Finally, he prayed that the written statement filed on behalf of these defendant-petitioners along with their father is forged and fabricated. They are ready to examine their signatures or thumb impressions through the scientific expert. It is therefore, written statements, dated 29.06.2001, may be rejected.

Ld. Advocate for the plaintiffs has submitted that, the petition filed by the defendant no. 7 and 8 are not maintainable either in law or facts of this case. He submitted that, in instant case defendant no. 6 Ram Japo Yadav is the father of defendant no. 7 and 8, who filed their written statement on 26.09.2001 duly verified by them over which defendants no. 6 to 8 have put their thumb impressions. He has submitted further that, this is an old case of the year 1994, in which evidences of plaintiffs and defendants have been closed on 03.07.2012 and 18.08.2016 respectively and case record was posted for final argument to be opened by the defendants. It is therefore, the instant petition, dated 23.08.2022, deserves to be rejected.


Contd.

14.03.2024-

Having heard the parties, perused the case record. On perusal it appears that, on 26.09.2001 a joint written statement has been filed on behalf of these petitioner-defendants along with their father, which bears their thumb impressions and signed by their Id. advocate. This written statement has been verified also by them. Further, an affidavit in support of correctness of the said written statement has also been filed by the defendant no. 6 Ram Japo Yadav, who is father of the petitioner-defendants. Further, from perusal of the ordersheets it appears that there has been regular Pairvy on behalf of defendant no. 6, the father of these petitioner-defendants. Further, this suit has been filed for partition of the properties in in which along with these petitioner-defendants, their father is also party. The evidences of the plaintiffs and defendants have already been closed on 03.07.2012 and 18.08.2016 respectively, during which father of these petitioner-defendants has been examined and cross-examined, and case record has been posted for final argument to be opened by the defendants.

Considering the foregoing discussions, this Court finds the instant petition, dated 23.08.2022, devoid of any merit, it seems an attempt to protract the disposal of this old Partition Suit. Accordingly, it is hereby by rejected.

Put up case record on 18.04.2024 for further proceedings.

  
Sub-Judge  
Bakhri