

In the Court of the Sub Judge-II, Benipur
Present:- Pranav Kumar Bharti

Title Suit No.-33of 2018,Registration No.-37/18
Bibi Nurun Nishan vs. Md. Ilahi Bux & Others

30-08-2022

Case is called out and record is produced before me. Wakaltan hazari is filed on behalf of plaintiff while defendants are absent. Perused the case record. On perusal of the case record, it appears to the Court that today this suit is fixed for order on petition dated-30.09.2019 filed on behalf of the plaintiff u/s-151 of the CPC. In this petition, prayer of the petitioner is that petition has already filed a petition to get her T.I. examined by an expert in order to avoid controversial issues. It is further submitted that the petitioner wants to give admitted T.I for the examination by an expert with disputed T.I. over registered sale deed no.-19827,dated:-26.12.1988. The petitioner is ready to give her T.I.(Both right and left) for needful in presence of Siristedar. It is therefore, prayed that your honour would graciously be pleased to accord permission to the petitioner to give specimen of T.I. Both right and left) in presence of Siristedar of the Court in interest of justice.

A rejoinder petition is filed on behalf of the defendant no.-1 on petition dated-30.09.2019. In this rejoinder, it has been submitted that on 30.09.2019, plaintiff has field two petitions, one U/O-VIII, Rule- 1A and the u/s- 151 of the Code and another u/s- 151 of the Code. Both the petitions field by the plaintiff is not maintainable in the eye law and facts as well. Further submission of the defendant is that none of the petitions of the plaintiff is supported by affidavit and on this score alone petitions are fit to be rejected. The original sale deed has been demanded by the plaintiff for scientific investigation. The plaintiff has herself filed certified copy of sale deed which on record. So far as original document dated-26.12.1998, it is missing and shall be field later on after its availability. It is further submitted that justice demands that plaintiff has to prove on case and cannot take any advantage or weakness of defence case. The defendant no.- 5,6,7,8 filed W.S. on 17.06.2019 and no copy has been served to them which too appears from record. It is the plaintiff who has to take proper steps. The petition of the plaintiff is otherwise bed and fit to rejected.

Continue.....

Title Suit No.-33 of 2018, Registration No.-37/18
Bibi Nurun Nishan vs. Md. Ilahi Bux & Others

30-08-2022

continued.....

Heard both the learned counsels of plaintiff and defendant and perused the case record. On hearing and perusal of the case record, it appears to the Court that this suit has been brought by the plaintiff against eight defendants on 17.05.2018. In this suit, issues have been settled on 11.12.2019 and since 14.01.2020 this instant suit has been pending for plaintiff evidence. On perusal of case record, it appears that prior to the settlement of issues, the instant petition dated- 30.09.2019 filed behalf of plaintiff. It transpires that the suit has been brought by the plaintiff for declaration of sale deed no.-19827, dated-26.12.1988 executed by Bibi Nurn Nisha in favour of Md. Ilahi Bux null and void. As per the plaint, defendant no.-1 namely Md. Ilahi Bux get a forged and fabricated sale deed dated:-26.12.1988 registered on his name which is not binding upon plaintiff. Whereas, defendant no.-1 claimed in para-20 of the W.S. that the sale deed, dated-26.12.1988 was executed by the plaintiff after receiving full consideration money which is evident from the sale deed itself.

In the circumstances as discussed above, the Court is of opinion that plaintiff of the suit namely Bibi Nurun Nishan is an infirm and very old lady who may leave the world any moment. The sale deed, dated-26.12.1988 is the apple of discord and essence of this case which examination by an expert is demand of justice and it is also essential for the just decision of this suit. So far as the other objections raised by the defendant no.-1 are concerned, it shall be decided later on after hearing both parties to this suit. Hence, petition dated-30.09.2019 filed on behalf of the plaintiff is allowed. Plaintiff is directed to remain present in person for giving Thumb Impression (Both left and right) in the presence of defendants before Siristedar as well both the learned counsels of plaintiff and defendants. Siristedar Benipur is directed to take the Thumb Impression of the plaintiff on three pages in accordance with law so that it could be sent to the Finger Print Bureau for examination on the payment of the plaintiff. Thus, petition dated-30.09.2019 is disposed of as accordingly. Fixing on 12.9.22 for giving T.I.

Dictated

Sub Judge-II

30.8.22