

27.05.2022

ORDER

Vide this order, the Court shall dispose off the application of plaintiffs under Section 73 of Indian Evidence Act r/w Sec. 151 CPC for comparison of signatures with admitted signatures and sending the signatures for expert opinion.

Following arguments were submitted on behalf of plaintiffs :

a) The documents filed alongwith the written statement by defendant are forged and fabricated title documents in the shape of GPA, agreement to sell, affidavit, receipt dated 18.05.1995 and 12.09.1997. Defendant has falsely alleged that Sh. Anand Prakash and Sh. Satya Prakash had sold/transferred their undivided share in respect of the property in question to himself. The said documents do not bear the signature of either Sh. Anand Prakash and Sh. Satya Prakash.

b) Plaintiffs are in possession of original signature of late Sh. Anand Prakash and Sh. Satya Prakash and if these signatures are compared by naked eye with the signature appearing on the aforesaid documents are different and have no relevancy and comparisons of both the signatures.

c) For the fair disposal of the case, it is necessary to send the original signatures of Sh. Anand Prakash and Sh. Satya Prakash with the signature as forged / manipulated by defendant in the aforesaid documents, to the forensic lab for the comparison.

Following arguments were submitted on behalf of defendant :

- a) The present application is an abuse of the process of law and same is liable to be dismissed with heavy cost. Plaintiffs have knowledge about the selling/transferring their respective portion by their father to defendant.
- b) The documents submitted by defendant are genuine and both late Sh. Anand Prakash and Sh. Satya Prakash had sold/transferred the properties in favour of defendant. Defendant is the owner and in possession of the suit property since 1995 and 1997.
- c) The said documents were duly signed by both Anand Prakash and Satya Prakash in the presence of defendant. If plaintiffs have original signatures of both late Sh. Anand Prakash and Sh. Satya Prakash, then they should have filed the same alongwith the present application. Both late Sh. Anand Prakash and Sh. Satya Prakash have expired and authenticity of their signatures cannot be admitted or proved. The mandates of Section 73 Evidence Act does not fulfill.
- d) The application may kindly be dismissed with special cost, in the interest of justice.

Findings of the Court

The law regarding the opinion of a handwriting expert or the scientific expert has been laid down by the Hon'ble Superior Courts in various judgements. From the settled legal position emerged out of them, it is clear that the evidence of the handwriting expert is to be interpreted like any other witness and the same cannot over-ride the opinion of the court. The court is also well competent to form its' own opinion, regarding the signatures of a party, on a document. (Ref: '**Ram Narain vs. State of U.P. 1973 SC 2200; Ramesh Chandra Agrawal vs. Regency Hospital Ltd. and Ors. AIR 2010 SC 806; 'Kishan Chand vs. Sita Ram and Ors. AIR 2005 P&H 156'**).

Plaintiffs have filed the present suit for partition, possession and permanent injunction against defendant. Plaintiffs have claimed that the GPA, Agreement to Sell, Affidavit, Receipt dated 18.05.1995 and

12.09.1997 executed by Sh. Anand Prakash Tyagi & Sh. Satya Prakash Tyagi, filed by defendant along with the written statement are forged and fabricated. Plaintiffs have further claimed that they are in possession of original signatures of Sh. Anand Prakash Tyagi & Sh. Satya Prakash Tyagi and if these signatures are compared, it will be revealed that the signatures have been forged and manipulated by defendant just to grab the suit property. On the other hand, defendant has denied all the contentions of plaintiffs.

Admittedly, both Sh. Anand Prakash Tyagi & Sh. Satya Prakash Tyagi have expired and their signature can be now not obtained for comparison, to the satisfaction of the court. There is no admitted signature of theirs available on record. In such circumstances, the genuineness of their signatures available with plaintiffs can't be proved or established on record. The court is in agreement with the arguments of defendant that the essential ingredients of section 73 of Indian Evidence Act are not satisfied.

In view of the above, this court does not find any merit in the present application and the same is hereby dismissed.

The application is disposed off accordingly.

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ADJ01/NE/KKD/DELHI
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