

17/04/17 Today the date is fixed for hearing of petition dated 17.05.2016 filed by the plaintiff.

Both parties are present through their conducting lawyer.

The petition dated 17.05.2016 namely for examination of finger print by expert is taken up for hearing.

Heard the Ld advocate for the plaintiff who submits that it is very necessary for proper adjudication of the suit, to compare finger print of deceased Hazi Maharam Mandal lying on exhibit 2 deed with the finger print lying on volume book of impugned deed being no. 628/2003 . It also submitted that said Maharam Mandal had executed a deed dated 25.11.85 and same has been marked in this suit as exhibit 2.

Ld. lawyer for the defendants raised objection and submitted that they have challenged the genuineness exhibit 2 deed as Maharam Mandal did not execute that deed. As this deed is not admitted by the defendant , it can not be considered to be admitted document for comparison of LTI with the LTI of impugned deed.

Heard. Perused. On perusal of the case record it appears that the plaintiff have challenged the impugned deed stating that Hazi Maharam Mandal did not execute the impugned deed in favour of defendant . The defendant by false personification any how manage to execute the deed by representing another person as Maharam Mandal. On the other hand defendant stated that Maharam Mandal himself executed the impugned deed in their favour and the deed has lost from their custody.

To ascertain the above dispute this Court is of the view that expert opinion should be taken to reach at final conclusion . It is impossible to examine the LTI in bare eyes without having any special skill in this field. As the concerned page of LTI register has lost , the ADSR has filed page no. 352 to 359 of book no. 1, volume no. 9. This is the volume book of impugned deed being no. 628/2003. On perusal it reveals that there is LTI of Hazi Maharam Mandal on every page . This is the public document kept in custody of public officer. This 5 nos of LTI is marked as exhibit "Q" for the purpose of identification for expert experiment . On perusal of exhibit 2 deed being no. 9458/1985 it reveals that this deed bears LTI of Hazi Maharam Mandal on every page. These 5 nos of LTI marked as exhibit "S" for identification for expert experiment.

From the above discussion this court thinks that it is necessary to compare the above stated thumb impression by the finger print expert for the proper adjudication of the suit. And this court also think that if such be passed, the defendant would not be prejudiced.

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Considering the above I am inclined to allow the prayer of plaintiff.

Hence, it is

ORDERED

that the instant petition dt 17.05.2016 be and the same is allowed on contest but without any order as to cost.

The Director of Finger Print Bureau, is requested to compare finger print of Hazi Maharam Mandal as marked "S" with the question finger print marked as "Q".

Let this order sheet be sent to the The Director of Finger Print Bouroue, C.I.D. West Bengal Araksha Bhaban, State Crime records Berue Building, Salt Lake, Kolkata - 700091 at the cost of plaintiff. For this purpose the entire cost amount will bear by the plaintiff.

DA is directed to assess the probable cost of above experiment .

To06/2017 report for cost by the office.