

O.S. 01 of 16 (01 of 16)

16.12.23

The parties filed their respective hazira.

Two petitions are fixed for hearing today, one is filed by the opposite party u/s 151 CPC and another is u/s 151 CPC also filed by the petitioners.

The petition of the opposite party dated 17.02.23 is taken up for hearing along with one objection filed by the petitioners today on 16.12.23.

Heard ld. Lawyers for both the parties regarding the said petition.

Perused the petition with Affidavit, WO with Affidavit, pleadings of the parties and evidence etc.

It is submitted by ld. Lawyer for the opposite party that one registered deed of declaration which has not been marked earlier as exhibit but at present the opposite party wants to exhibit the same as the same is presently 30 years old document and a registered one.

Ld. Lawyer for the petitioner raised vehement objection submitting that the said document has not been proved as per law.

Considered.

It appears from the pleadings that in paragraph no.22 of the WO filed by the opposite party the description and facts relating to the said registered deed of declaration dated 12.03.93 has been specifically stated and it is very much within the knowledge of the present petitioner.

It also appears from the evidence (cross examination of the petitioner PW1) that during cross examination the PW1 admitted the signatures in the said deed of declaration dated 12.03.93 as the signatures of her husband and the signatures have already been exhibited. The deed at a present is 30 years old (12.03.1993) and the original deed is produced by the opposite party who is also a party in the said registered deed.

In this regard ld. Lawyer for the opposite party submitted a decision reported in **2023 (4) ICC 472**.

Considering all these aspects the original deed of declaration dated 12.03.93 is to be exhibited. Noting the objection of the petitioners side

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which is to be considered at the time of argument.

So the said deed of declaration dated 12.03.93 (the signatures of which have already been exhibited as Exbt.A/1 to Exbt.A/3 by PW1 herself) be marked as **Exbt.X (objected to)**.

The petition of the opposite party dated 17.02.23 is allowed and disposed of with the above observation.

The petition of the petitioners dated 17.02.23 for recalling PW1 is also taken up for hearing today.

Heard both sides. Perused the petition and the WO filed by the petitioner as well as the pleading and evidence etc.

Considered.

It appears that the petitioner has prayed for submitting some documents before this Court by recalling her. Ld. Lawyer for the opposite party raised objection by submitting a WO dated 10.07.23 stating that the petitioner is now trying to fill up the lacuna by making a different case.

It appears that in the pleading the petitioner has not stated anything about any of the documents which she wants to bring in the present suit at the stage of argument. Both the parties have completed their evidence and after conclusion of evidence at the time of argument the petitioner wants to tender some documents by recalling her regarding which there is no pleading.

It appears that the documents are relating to the opposite party no.2, opposite party no.4 etc and there is no pleading concerning these opposite parties nor any fact is stated about them in the petition filed by the petitioner. It also appears that no amendment has been made so far by the petitioners of their original petition stating any of the facts relating to the documents.

Now at the stage of argument they want to introduce some new

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documents which are beyond pleading. There is nothing stated in the petition as to how and when they (petitioners) could be able to search out such documents.

Considering the entire circumstances the petition of the petitioners for introducing some new documents by way of recalling her (PW1) at the stage of argument is rejected on contest.

The petition is thus disposed of.

To **05.02.24** for argument.

Dictated and Corrected by me

Addl. District Judge
1st Court, Purulia.

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1st Court, Purulia.