

IN THE HIGH COURT OF JHARKHAND AT RANCHI
S. A. No. 654 of 2015

Prakash Mahtha & Ors.			Appellants
Versus			
Sohagi Devi & Ors.			Respondents

CORAM: HON'BLE MR. JUSTICE GAUTAM KUMAR CHOUDHARY

For the Appellants	: Mr. Jageshwar Mahto, Advocate
For Respondent Nos. 1-7, 13-15, 17, 18, 21, 28-31, 34, 36, 37, 41-43, 46-48, 52	: Mr. Nehru Mahto, Advocate

Oral Order

10 / Dated : 12.06.2024

It is argued by learned counsel for the appellants that at the stage of first appeal, a petition had been filed by the appellants under Order 41 Rule 27 of C.P.C. to adduce the additional evidence of the voter list. The said petition was allowed by order dated 22.05.2008 and the document was also marked as Ext. 1 and 1/ 1 vide order dated **14.08.2010**.

It is submitted that there was error in marking the number of exhibit as Ext. 1 and 2 have already been marked by learned Trial Court and it should be marked as Ext. 3 and 3/1. Due to this error in assigning the number of exhibits, learned First Appellate Court omitted to consider the voter list which was duly proved while returning the finding on Issue No. 4 that the plaintiffs/appellants did not come from the same family.

From perusal of the lower court record, which was earlier called for in this case, it appears that the voter list was exhibited and marked as exhibit but it has not been considered by learned First Appellate Court. Under the circumstance the voter list earlier marked as Ext-1 and 1/1 vide order dated 14.08.2010 to be renumbered as Ext-3 and 3/1 by the office after the LCR being received.

Under the circumstance, this appeal is admitted and will be heard on the following substantial questions of law:

Whether the judgment of learned First Appellate Court suffers from serious infirmity for non-consideration of Voter List which was duly marked as Ext. showing the parentage of Sita Ram Mahto?

The other substantial question of law, if any, shall be formulated at the time of hearing of the appeal.

Mr. Nehru Mahto, learned counsel, is appearing on behalf of respondent nos. 1-7, 13-15, 17,18, 21, 28-31, 34, 36, 37, 41-43, 46-48, 52.

Learned counsel for the appellants is directed to serve notice upon the remaining respondents for which requisites etc. under registered cover with A/D as well as under ordinary process must be filed within two weeks.

Let this case be listed after six weeks under the appropriate heading.

(Gautam Kumar Choudhary, J.)

AKT/Satendra

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