
(2002) 05 PAT CK 0085
In the Patna High Court
Case No : Civil Revision No. 40 of 2001

Ganga Sagar Gond and Others	Vs	APPELLANT
Ganesh Gond and Others		RESPONDENT

Date of Decision : 06-05-2002

Acts Referred:

Evidence Act, 1872 — Section 63(2)

Citation : (2002) 2 PLJR 772

Hon'ble Judges : Nagendra Rai, J

Bench : Single Bench

Advocate : R.S. Pradhan, Amrendra Narayan Rai and Rajeev Lochar, for the Appellant; Rang Nath Choubey and Archana Minachi, for the Respondent

Final Decision : Allowed

Judgement

Nagendra Rai, J.—This Civil revision application is (sic) rected against the order dated 25.11.2001(sic) passed by the 1st Munsif, Buxar, rejecting the prayer of the Defendants/Petitioner, mark photostat copy of sale deed of the year 1890 as an exhibit.

2. The materials on record show the Petitioners examined two witnesses prove the said document who have state that photo copy of the said document was made in their presence. The evidence witnesses fulfils the requirement as provided u/s 63(2) of the Indian Evidence Act for taking secondary evidence. It provides that the copies made from the original by mechanical processes which in themselves insure the accuracy of the copy and copies compared with such copies are to be taken as secondary evidence. The Defendants/Petitioners have stated before the Court below that the original sale deed has been lost and accordingly, the said documents be admitted as secondary evidence. The Court below rejected the said prayer on the ground that there was no evidence on record to mark the documents as exhibit.

3. In my view, the Court below has committed jurisdictional error in coming to

the aforesaid conclusion ignoring the evidence having been produced by the Defendants. Accordingly, let the photo copy of the original sale deed of the year 1890 be marked as Exhibit. However, it is made clear that the question as to whether the said document is genuine or not will be gone into at the time of final disposal of the suit. Admission of document does not mean that document has to be treated as a genuine document. The genuineness and relevancy have to be considered along With other evidence at proper stage.

4. In the result, the civil revision application is allowed with the aforesaid observation and direction.