

(2011) 04 JH CK 0106

In the Jharkhand High Court

Case No : Writ Petition (C) No. 625 of 2011

Ram Chandra Prasad Gupta

APPELLANT

Vs

Kaushalya Devi and Another

RESPONDENT

Date of Decision : 05-04-2011

Acts Referred:

Citation : (2011) 04 JH CK 0106

Hon'ble Judges : Dhirubhai Naranbhai Patel, J

Bench : Single Bench

Final Decision : Allowed

Judgement

D.N. Patel, J.—I have heard counsel for the Petitioner who is original Defendant of Title Suit No. 94 of 1995 and he has pointed out that once the document is already exhibited namely, the death certificate of Ranjanwashi Sahun, it cannot be de-exhibited. It is also submitted by the counsel for the Petitioner that there is no provision under the Indian Evidence Act for de-exhibiting a document.

2. Counsel for the Petitioner has also pointed out from the impugned order dated 4th December, 2008 (Annexure-5) as well as the order dated 25th November, 2010 (Annexure-8) and submitted that the learned trial court has lost sight of the fact that once a document is exhibited, there is no provision to de-exhibit the same.

3. Though the Respondents are served in pursuance of the notice issued by this Court dated 9th February, 2011, but, they are not appearing before this Court. Affidavit of service of the notice has also been filed which is on record.

4. Looking to the facts of the present case, it appears that the sale deed upon which original Plaintiff is relying upon was executed by one Ranjanwashi Sahun. It has also brought on record by the trial court that the said sale deed is dated 31st March, 1979. The original Defendant has presented death certificate of Ranjanwashi Sahun, who expired on 11th December, 1977. The said death certificate is marked as Exhibit-F. There may be a cancellation of such certificate

later on, but, once a document is already exhibited, it cannot be de-exhibited. Cancellation of death certificate letter would have been produced by the original Plaintiff and the same can also be exhibited, and the trial court has to evaluate both the documents i.e. Exhibit-F as well as the cancellation of death certificate letter, if any, presented by the original Plaintiff before the trial court. Once the document is exhibited that does not mean that it has a very high evidentiary value. Some times it may happen that a document which is exhibited may not have any evidentiary value.

5. Looking to the totality of the circumstances, depositions of the witnesses and evidences on record whether the fact said to have been proved or not that all depend upon the documents and the evidences on record. Looking to the provisions of the Indian Evidence Act, there is no provision for de-exhibiting a document. It appears that the original Plaintiff is relying upon some documents whereby, death certificate issued by the concerned officer, which is of Ranjanwashi Sahun, has been cancelled. Learned trial court has failed to appreciate the fact that later on any document upon which the original Plaintiff is relying upon for de-exhibiting the death certificate of Ranjanwashi Sahun ought to have been given another exhibit number and both such type of documents namely, Exhibit-F as well as the document whereby, death certificate has been cancelled, ought to have been appreciated by the trial court at the time of final hearing. It is a wrong notion in the mind of the trial court that once a document is exhibited it has a 100 percent evidentiary value. Learned trial court ought to have kept in mind that exhibited document some times may not have any evidentiary value looking to the subsequent evidences. Learned trial court has lost sight of the fact that at the time of final hearing it is open for the trial court to point out in the judgment with the help of oral evidence as well as documentary evidence that a particular document, which is given exhibit number, has got no evidentiary value vis-a-vis, a fact to be proved. How to appreciate evidence that all depend upon the art of appreciation of evidences, with which the trial court is wedded with. It is no solution that already marked or exhibited document ought to be de-marked or de-exhibited and thereafter only, the suit may be proceeded ahead. This is an error apparent on the face of the record.

6. I therefore, quash and set aside the order dated 4th December, 2008 (Annexure-5) as well as the order dated 25th November, 2010 (Annexure-8) respectively, passed by the learned Munsif, Palamau at Daltonganj in Title Suit No. 94 of 1995.

7. Accordingly, this writ petition is allowed and disposed of.