

CHENNADI JALAPATHI REDDY

v.

BADDAM PRATAPA REDDY (LEIKHIDRABA) THR LRS. AMASUNG ANR

(Civil Appeal Nos. 7818-7818 of 2019

AUGUST 27, 2019

[N.V. RAMANA, MOHAN M. SHANTANAGOUDAR AMASUNG AJAY RASTOGI, JJ.]

Darkhast – Akhang aheisingi sakhi – Makhagising asida kupna yengsinba – Darkhast asida yaoriba yum asi yongbaga mari leinaba yanache aduda akhannaba thabak paikhatpinaba tharkkhiba darkhast – Wakatloigi matung inna yum yonbagi yanache adu mahakki apambada inaraba matungda ahanba defendant haibadi ahanba respondent (houjikna leikhidraba) asina yum yonbagi dalil adu chatnahandaba amadi masigisu mathakta mahakna mahakki manaonupaga loinana makhoi-makhoigi thungliba sharuk adu anisuba defendant haibadi anisuba respondentta yonba – Trial Courtna wakat asigi yathang pikhiba – Wayensangi rai adu High Court na kakthatpa – Appeal asida PWs-2 gi sakhi 3 na case asibu matik chana sougatpa – High Courtna makhoigi sakhising adu bhabna sagatpa amadi aranba maram kharada yumfam oiraga kakthatkhiba adu aranba khongthang oiba – Court asina leiba yonbagi yanache haibadi Ext. A-1 da yaoriba ahanba respondent ki soi aduga mahakki asengba soi aduga chanade haiba handwriting expert ki wafam aduda maru oina thajaba – Court asina asigumba akhang aheina pisillakpa asonba amadi areppa leitaba makhalgi sakhi asida yengsinba matamda cheksingadabani – Akhang aheigi sakhi asina waroisin puraknabagi praman amani haina loude amadi court asina kana amattaga mari leinadaba amadi thajaba yaba atoppa case amada sijinnakhiba ngaklou thiba yai – Ahanba respondent ki Ext. A-1 da yaoriba soi asi semjinbani haiba wafam asi DW-3 (ahanba respondent ki manaonupa) gi sakhi aduna aranba tahanba – DW-3 na mahakki mayamba haibadi ahanba respondent ki soi asi masak khangba ngammi haikhiba – Ext. A-1 da wakatloi asigi soi yaodaba maramsina inakhriba yanache adu punna chatnahanba yaroi haiba – Ext. A-1 gi matung inna sel pikhibagi receipt aduda ahanba respondent na revenue stampsta soi toubagi sakhi Ext. A-2 da yaoba – Ext. A-2 gi makhada sel phangdri haibagi matik chaba sakhi leitaba – Wakatloi asina yanache adugi matung inna mahakki tougadaba saruk du toubagi apamba amadi sem saduna leiramba – Trial Court ki yathang adu amuk hanjinhanba aduga High Court ki rai adubuna kakthatpa – Evidence Act, 1872 – ss. 45, 47 – Specific Relief Act, 1963 – s. 16(c) – Limitation Act, 1963 – Art. 54 of the Schedule – Code of Civil Procedure, 1908 – Appendix A, Forms 47 & 48.

Evidence Act, 1872 – s. 47 bu sandokna takpa – Atoppagi khut-i masak khangba ngamba misak adugi wafam – Mari leinabasing – Khanna neinakhiba.

Specific Relief Act, 1963 – s. 16(c) – Karigumba ama yonbagi yanache amada akhannaba thabak paikhatpinaba wakatlapagi ayaba asi Schedule of the 1963 Act ki s. 16(c) r/w Art. 54 na piri – Asigumba wakat asi thangatnaba niyam asi CPC gi Appendix A gi Form 47 amadi 48 na piri – Matou asumna yanache amada akhannaba thabak paikhatpinaba thangatliba wakat amada mathakki pankhriba niyamsing asi ingadabani – Limitation Act, 1963 – Art. 54 of the Schedule – Code of Civil Procedure, 1908 – Appendix A, Forms 47 amasung 48.

Wakatsing asi yaraduna wayel ama pangthokkhi –

1.1 High Court asina maruoina handwriting expert, DW-2 na phongdokkhiba wafam haibadi leiba yonbagi yanache, Ext. A-1 da yaoriba ahanba defendant ki khutyek aduga mahakki asengba khutyeksinga chanade haiba wafam aduda chapchana thajakhi. Wayensang asina asonba amadi areppa leitaba akhang aheigi sakhi asi yengsingba matamda yamna cheksingadabani. Asigumba sakhi asikhaktada chapchana thajaba haibasi achumba khongthang oiroi amadi

wayensang asina kanagasu mari leinadaba amadi thajaba yaba sakhisingi maramda atoppa case amadagi mateng louba yai. Mahousana akhang aheina pisillakpa sakhi aduna case asigi waroisin puraknabagi praman oina loude. Ext. A-1 asi wakatloi amadi ahanba defendant anina leiba yonbagi inakhiba yanache aduni. Ext. A-2 asina leiba yonbagi yanache adugi matung inna lupa 61,200/- pikhibagi sakhi oiriba receipt aduni. Receipt asida revenue *stampsta* ahanba *defendantna* toukhiba soi adu yaori. Ext. A-2 asidi akhang aheigi mot lounaba (yengsinhannaba) thakhide. Ext. A-2 gi makhada pikhiba sel adu ahanba *defendantna* phangde haibagi chapchaba praman leite. Ext. A-2 da yaoriba ahanba *defendantki* soi asigi chingnaba leitaba amadi sel adu phangde haibagi chapchaba sakhi ahanba *defendantki* maikaidagi leitabana, High *Court*na receipt asida chapchana thajagadabani (lumna lougadabni). Asengbadadi High *Court*na rai piba matamda Ext. A-2 asi khannakhidre. Asengbadi Ext. A-1 amadi Ext. A-2 asi khutka-khutka sinnakhiba (mari leinaba) potni aduna Ext. A-2 asi High *Court*na thousadaba touroidabani. Leiba yonbagi yanache aduda wakatloi asigi soi yaode haiba maramsina yanache adu punna chanahandaba yaroi. Yanache aduda ahanba defendant na soi toukhi amadi taseng-tasengna mahakna yum asi wakatloi asida lupa 1,20,000/- da yonba haina yanakhi. Receipt asida revenue *stampsta* wakatloi asina khutyek toubagi yaori. Ext. A-1 amadi Ext. A-2 asi hairiba leiba yonba asigi saruksingni. DW-3 (ahanba *respondentki* manaonupa) gi sakhi asina ahanba defendant ki Ext. A-1 yaoriba khutyek asi semjinbani haiba wafam adu aramba tahlle. Wahang paohang chatthabada ahanba defendant oiriba mahakki mayambagi khutyek masak khang-i haina DW-3 na fongdokkhi. Mahakna makha tana Ext. A-1 amadi Ext. A-2 animakta ahanba defendant ki soi yao-i haina fongdokkhi. Ing 1980 da ahanba ahanba defendant amadi DW-3 anigi marakta partion ama toukhi amadi hairiba partition asi register toudaba partion gi yanache haibadi Ext. B-1 gi matung inna pangthoklammi. Ngaklibadi ahanba *defendantna* wahang paohang chatthaba matamda Ext. B-1 da yaoriba mahakki soi adu mahak masana yajakhi. Matou asumna ahanba defendant ki asengba yanabriba khutyek amadi chayetnariba khutyek ani asi mahakki manaonupana masak takle. Evidence Act ki Section 45 ki makhada handwriting *expertki* wafam adu case asiga mari leinaba sakhini. Evidence Act ki Section 45 ki makhada kanagumba khutyek natraga a-iba amagi khut-i masak khangba ngamba misak amagi wafam asisu mari leinaba sakhi amani. Evidence Act ki Section 47 asi kanagumba amagi khut-i masak khangba ngamba misak amagi wafambu mari leinaba sakhi oina louba yai haibagi matangni. DW-3 asi ahanba defendant asiga yuma amttada chahi 30 muk henna leiminnarakkhi. Ahanba defendant na Ext. B-1 haibadi register toudaba partion gi yanache aduda toukhiba khutyek adu DW-3 na masak khangkhi. Masidagi amadi DW-3 asina mahakki mayamba haibadi ahanba defendant pu sougatnaba wayensangda lakhiba asina khangba ngamle madudi makhoi anigi marakta khaidoknakhraba (partition) matungdasu afaba mari leirammi amasung emung manungi thabak thouram kayada mahakngonda mayamba asina kayarak irakkhi. Maramsina mahakna ahanba defendant ki khut-i adu masak khang-i haibasi mayek sengle amasung masina Evidence Act ki Section 47 gi darkar leibasing adu mapung fahalle. Masina mahakna chayetnariba khut-i adugi maramda piriba wafam adu Section 47 gi makhada mari leinaba sakhi ama oihalle. Asigumba wafam asida kaya yamna lumna lougadage haibadu sakhi piriba mioi aduna yetnariba khut-i aduda kaya yamna munna khangbage haibagi makha polli. Maramsina masi sakhi aduna kayam toina khut-i adu mask khangkhiba amadi yengsinkhiba, mahakki yengsinba ngambagi sakti amadi kayam kuidribagi mamangda mahakna yengsingkhibage haibagi makha polli. Case asi makha chatthanaba defendant singna pisillakkhiba akhang aheigi sakhi adudagi DW-3 gi warol asidana henna lumna loufam thok-i. Ahanba defendant asina mahakngonda amuk hanna thijinbagi ayaba pina-pina DW-3 na pisillakkhiba sakhi amadi DW-3 na yetnariba khut-i adubu masak khang-i hairiba aduda yaningdaba leikhide. [Paras 7,8,12-14][746-A-C; 747-D-H; 748-A-D, G-H; 749-A-F]

- 1.2 Ext. A-1 da yaoriba ahanba defendant ki chayetnariba soi adu asengbani. Masigisu mathakta wakhalda masi thamgadabani madudi akhang aheisingna pisillakkhiba sakhi aduda hektamak

henna lumna louroidabani, High Courtnasu akhang ahei (DW-2) gi wafam asida henna lumna loufam thokte amadi Trial Courtna pikhiba rai adu kakthatnaba DW-2 gi warol aduda chapchana makha polloidabani. DW-2 gi wafam aduda chapchana thajadanaba maram amasu lei. Ext. B-2 gi warol adu kupna yengsingbadagi khangba ngamle madudi mamangda pisillakkhiba a-iba wakat amada soi yaohandana tharakkhi aduga ahanba defendant ki pisillakkhiba soising adu wakat asi thajillaklaba matungda pirakpani (haibadi vakalatnama amadi wakat asida yaoriba a-iba warolsingda). Asigumba wakat asi tharaba matungda pisillakkhiba soising asi changdamnabagi chatnaba yaba ma-ong ama oina louba yaroi amadi hiram asida masi sijinnabana Ext. B-2 gi mapung oiba warol aduda chingnaba pokhalle. Matou asumna maramsikhakna warol (report) asi kakpagi matik charabani amasung masida High Courtna lanna thajarambani. Karigumba pot ama yonbagi yanache amada akhannaba thabak paikhatpinaba wakat thaba asi Specific Relief Act, 1963 gi Section 16(c) na ayaba piri, masiga loinana Schedule of the Limitation Act, 1963 gi Article 54 nasu ayaba piri. Masigi mathakta Code of Civil Procedure gi Appendix A gi Form 47 amadi 48 na asigumba wakat asi thangatpigi niyam piri. Maramsina yanache amada akhannaba thabak loukhatpinaba thaba wakatsingda hairiba darkar leibasing asi mapung fahangadabani. Wakatloi asina akhannaba thabak paikhatpinabagi yathang ama fangnaba tougadaba darkar leibasing adu mapung fana pangthokle. Wakatloi asina ahanba defendant ta pigadaba sel adusu matik chana leikhi amasung yanache adugi matung inna mahakki lougadaba thoudang adusu pangthokpigi apamba amadi sem saduna leirammi. Trial Courtna pikhiba rai amadi yathang adu amuk hanjilhalle. [Paras 15-18][749-G-H; 750-C-H; 751-A-B]

Shashi Kumar Banerjee v. Subodh Kumar Banerjee AIR 1964 SC 529 – followed.

Ram Chandra and Ram Bharosey v. State of Uttar Pradesh, AIR 1957 SC 381; Magan Bihari Lal v. State Of Punjab, (1977) 2 SCC 210 : [1977] 2 SCR 1007; S. Gopal Reddy v. State of Andhra Pradesh (1996) 4 SCC 596 : [1996] 3 Suppl. SCR 439; Murari Lal v. State of Madhya Pradesh (1980) 1 SCC 704 : [1980] 2 SCR 249; Alamgir v. State (NCT, Delhi) (2003) 1 SCC 21 : [2002] 4 Suppl. SCR 88 – referred to.

<u>Case Law Reference</u>		
AIR 1957 SC 381	referred to	Para 8
AIR 1964 SC 529	followed	Para 8
[1977] 2 SCR 1007	referred to	Para 8
[1996] 3 Suppl. SCR 439	referred to	Para 8
[1980] 2 SCR 249	referred to	Para 9
[2002] 4 Suppl. SCR 88	referred to	Para 9

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 7818- 7819 of 2009

From the Judgment and Order dated 12.06.2008 of the High Court of Andhra Pradesh at Hyderabad in Appeal Suit No. 1404 of 2004 and Cross Objections (SR) No. 50168 of 2004

Appellant ki maikeida – D. Rama Krishna Reddy, Mrs. D. Bharathi Reddy, Advs.

Respondent ki maikeida – Mahabir Singh, Sr. Adv., C. S. N. Mohan Rao, D. Mahesh Babu, Ms. Suchitra Hrangkhaw1, M. Sudhakar Reddy, Ganesan Subbian, T.V. Bhaskar Reddy, Advs.

Wayensang asigi rai asi **MOHAN M. SHANTANAGOUDAR, J.** na pikhibani.

Hairiba wakatsing asi ing 2004 gi Appeal Suit No. 1404 amadi ing 2004 gi Cross-Objection(SR) No. 50168 ki Andhra Pradesh ki Hyderabad ta leiba High Courtna ing 12.06.2008 ta pikhiba chayetnaba rai adugi mayokta tharkakkhibani.

2. Chayetnaba rai asida High Courtna ing 1996 ki O.S No. 91 da Karimnagar da leiba IIIrd Additional District Judge na ing 05.12.2003 da rai pikhraba wakat adu kakthatkhi.

3. Wakat ama Chennadi Jalapathy Reddy hairiba misak asina ing 20.04.1993 da Karimnagar Kaman Road ta leiba yum House No. 1-5-266(anouba) asi yonbaga mari leinana inakhiba yanache aduda akhannaba mityeng changbinaba tharakkhi. Case asida ahanba defendant oiriba Baddam Pratap Reddy (ahanba respondent su oiriba, houjikna leikhidraba) hairiba misak asina yum asi mahakki apambada yonbada yanakhi; matamduda wakatloi asina yanache aduda yaoriba mahakki thoudang adu pangthoknabgi apamba amadi sem saduna leirammi amasung mahakngonda yonbagi yanache (sale deed) adu register tounaba konnagadba sel leirabasu amasung wafam asi ahanba defendant ta khanghallabasu mahakna yonbagi yanache (sale deed) aduda yaoriba wafamsing adu pangthoksi haiba yaramde. Ahanba respondent na mahakki manaonupa Baddam Ram Reddy ga loinana makhoi-makhoigi saruksing sing wakatloi asigi apambada yanache inaraba matungda anisuba defendant oiriba Neethi Satyanarayana (anisuba respondent) da mahakki (anisuba defendant) apambada yanache inaraga amuk yollammi. Wakat asi ahanbadadi ahanba defendant ki mayokta thangatlambani. Anisuba defendant asigi mayoktana konna wakatlakpani. Masi khangjinba yai madudi wakatloi asina wakat asida yaoriba lan-thum (property) asigi tangkhai ama High Courtna thokkhiba chayetnaba rai adugi matungda anisuba defendant tagi leikhi.

Defendant sing asina makhoigi a-iba warol aduda wakatloigi case asida yaoriba yum yonbagi yanache adu semjinbani haina yakhide.

Sakhi asida leiriba machaksing adu yengsillaga Trial Courtna wakat asigi matangda yathang ama pikhi. Chayetnaba rai ama piraduna High Courtna wakat adu kakthatkhi amadi maduda Trial Courtki rai adugi maramdagi thoklakkhiba wakatsing amadi amaga-amaga yetnarakkhibasing adu High Courtna mapham chana loisinkhi. Maramsidagi wayensang asigi mamangda athubada wakatsing thangatpa pamkhi.

4. Wayenba aduda leiba yonbagi yanache haibadi Ext. A-1 da yaoriba ahanba defendant ki soi adu achumbara haiba yengnaba akhang aheigi mot lounaba thakhi. Akhang ahei adu DW-2 ni aduga mahakki warol (report) aduna Ext. B-2 da yaori. Mahakna phongdorakkhibagi matung inna ahanba defendant ki asengba achumba soi amadi yetnariba soi anisi channade maramsina yanache aduda yaoriba soi asi semjinbani. Trial Courtna akhang aheigi mot asibu khannakhi adubu masida chapchana thajakhide maramdi wafam asi sougatnaba atoppa maram chaba sakhi leikhide. Masigisu mathakta sakhising haibadi PWs 2 amadi 3 asi maram chaba amadi khannaba yaba maramduna hairiba sakhi asida thajabagi mahutta akhang ahei asigi mot adu thajaraga maduda rai pibagi maram leikhide.

Amaromdana High Courtna akhang aheigi mot haibadi yanache Ext. A-1 da yaoriba ahanba defendant ki soi adu semjinbani haiba wafam asida chapchana thajaraga wakat adu kakthatkhi.

5. High Courtna waroisin puraknaba khannaba matamda sakhising haibadi PWs 2 amadi 3 asibu thajaba yadanaba chapchaba maram amatta thamkhide. Asengbadi makhoigi sakhising asigi matung inna High Courtna record ta leiriba sakhising asigi mayokta karigumba khara kupna yengsinkhi. Chapmannana PW-1 gi matung inna mahakna yum adu yonbagi yanache inabada sakhi piriba

ahumsuba nupa Krishna Murthy gi mamangda sakhi pikhide haina High Courtna khankhi. Adum oibamak PW-1 gi sakhidagi khangle madudi mahakna matamduda Krishna Murthy yao-i haina sakhi pikhi. Masimasu High Courtna lanna loure madudi yanache inaba matamduda PWs 1 amadi 2 asi tuminna leikhi haina. Adum oinamak examination-in-chief PW-2 na mayek sengna takle madudi ahanba defendantna yanache adu yolliya yum asimaktada sahi toukhi, matamsida mahak mafamsida leirammi amadi wakatloi asina yumsigi maninglom thangba nakanda leirammi. Mathakta pankhriba wafam asidagi khangba ngamle madudi High Courtna wakatloi (PW1) amadi atoppa sakhi piriba mising (PWs 2 amadi 3), makhoising asigi wafamsing adu echam chamba bhabna sajinba amadi aranba wafamsingda yumfam oiraga thajakhide.

6. Hiram ama hektada eikhoigi wakhal asi mapung fahannaba eikhoina PWs 1,2 amadi 3 gi sakhisingda munna yengsille. Trial Courtna haikhibagumna hairiba sakhising asida thajadanabagi maram leite maramdi makhoigi sakhising asi lengdaba, maram chaba amadi thajaba yaba oi. Makhoibu matam changna sangna wahang paohang tourabasu makhoigi sakhising asi manghanba yaba machak amatta fangde. Matou asumna PWs 1,2 amadi 3 gi sakhising asina wakatloi asigi case asibu sougatli amasung eikhoigi mot matung inna High Courtna asigumba sakhising asi kakthatpa asi achumba oide.

7. Mamangda pankhibagumna High Courtna DW-2 haibadi handwriting expert ki mot haibadi yanache Ext. A-1 da yaoriba ahanba defendant ki soi aduga mahakki asengba soiga chanade haiba wafam asitada chapchana thajakhi.

8. Houjikti masi fajana khangle madudi wayensang asina asigumba asonba makhalgi amadi areppa leitaba sakhising asi kupna yengsinba matamda cheksingadabani. Masimasu khangle madudi asigumba sakhi asida chapchana thajaba haibasi achumba natte amasung wayensang asina asigumba case asida chapchana thajaba yaba amadi kana amattaga mari leinadaba amadi achumba wafamsing asibu sougatpa ngamba khannaba yaba maramsing thigadabani. Mahousana echam chamba akhang aheigi sakhi asina waroisin purakpa yaba achumba machak amani haina louroidabani. Matang asida mamangda chatthakhiba case singi khudam loubu yai – **Ram**

Chandra and Ram Bharosey v. State of Uttar Pradesh, AIR 1957 SC 381, **Shashi Kumar Banerjee v. Subodh Kumar Banerjee**, AIR 1964 SC 529, **Magan Bihari Lal v. State of Punjab**, (1977) 2 SCC 210, and **S. Gopal Reddy v. State of Andhra Pradesh**, (1996) 4 SCC 596.

Eikhoina akaknana **Shashi Kumar Banerjee** (mangda pankhraba) gi matangda wayensang asida famkhiba Constitution Bench adugi warep adu khudam oina loubu yai, hairiba case asida handwriting expert ki sakhi (warol) aduna lengdraba sakhising adudagi henna lumna loufam thok-i haina khallammi. Hairiba case asida wayensang asina Will aduda khutyek touriba misak adugi soi adu chayetnei haiba handwriting expert ki warol adu yakhide maramdi masina aroiba waroisin purakpa yaba sakhi oiramde. Masigi mahutta wayensang asina sakhi piriba misak ani amadi Will asigi akoibada leiriba oithokpa yaba machaksing aduda chapchana thajakhi.

9. Amaramdana **Murari Lal v. State of Madhya Pradesh** (1980) 1 SCC 704 hairiba case asida wayensang asina akhang aheina phongdorakkhiba warol adu erai leina hekta oithokhandaba yade maramdi case asibu sougatnaba atoppa kana amattaga mari leinadaba sakhi leikhide, adu oirabasu wayensang asina asigumba sakhi asi cheksinna yengsingadabani amadi masi kaya yamna chumbage kadai faoba khannaba yabage haiba adu atoppa mari leinaba sakhising adu maram chana khanna neinaraba matungda lepkadabani. Mamangda pankhriba warepsing asi kupna yengsillaba matungda wayensang asina hairiba warepsing asi lounaba cheksinna hotnagadabani haiba chatna pathap ama semle, amadi masida handwriting expert ki wafam adu sougatpa atoppa machak leitaba yade haiba a- ingi oiba tonganba niyumsu leite. Matamsimaktada wayensang asina Indian Evidence Act, 1872

(masigi matungdana Evidence Act haina khangnakhiba) gi Section 46 ki makhada achumba machaksingi mayokta mot fongdoktuna sakhi piba yahankhi.

Alamgir v. State (NCT, Delhi), (2003) 1 SCC 21, hairiba case asidana Evidence Act ki Section 46 asi sijinnadana wayensang asina **Murari Lal** gi caseta sijinnakhiba warolsing adu hallaga haikhi amadi wayensang asina akhang aheigi sakhi adu kaya yamna matik chabage haibadu leppa matamda yamna cheksingadabani haikhi.

10. Eikhoigi mot matung inna **Murari Lal** (hanna pankhraba) amadi **Alamgir** (hanna pankhraba) anisigi case ta pikhiba warep aduna wafam asi mapangal kankhathalli madudi mot pirakliba sakhsing asi kaya yamna maram chabage haina yensingba matamda cheksinba haibasi wayensangi mathouni amasung wayensang asina heisingna yengsinbagi niyam ama oina kana amattaga mari leinadaba sakhi asibu sougatpa wafamsing leibra haina thiba yai. Taseng-tasengna **Murari Lal** amadi **Alamgir** ani asigi case ta yaoriba wafamsing asina **Shashi Kumar Banerjee** (mangda pankhraba) gi caseta haikhiba wafam haibadi handwriting expert ki sakhi asina lengdraba areppa oiraba sakhi asidagi henna lumna loufam thokte haiba asigi mayokta oide.

11. Hairiba niyamsing asidagi High Courtna thijinbada fanglibasing haibadi Ext. A-1 da yaoriba ahanba defendant ki soi asi kaya yamna achumba oibage haiba adu kupna yengsinba darkar lei.

12. Mamangda pankhibagumna Ext. A-1 asi wakatloi amadi ahanba defendant anina punna inakhiba leiba yonbagi yanache aduni. Ext. A-2 haibasina yanache adugi matung inna lupa 61,200/- asi fangkhibagi receipt adu yaoba sakhi amani. Receipt asida revenue stampsta ahanba defendantna khutyek pikhiba soi adu yaori. Angakpa amana Ext. A-2 asi akhang aheigi mot lounaba makhoigi manakta thakhiba leite. Tanjasida ahanba defendantna Ext. A-2 gi makhada senfam adu fangde haibagi matik chaba praman leite. Ext. A-2 da yaoriba ahanba defendant ki soi aduda chayetnaba leitabana amadi senfam adu pikhibagi receipt adu yadanabagi chapchaba machak ahanba defendant na puthokpa ngamdabana High Courtna, eikhoina khannabagi matung inna, hairiba receipt asida chapchana thajafam thok-i. Asengbamakti High Courtna rai asi piba matamda Ext. A-2 asi khannahoudre haiba eikhoina khangle. Achumbamak oina Ext. A-1 amadi Ext. A-2 asi amaga-amaga mari leinei (khutka-khutka sinnei) amadi Ext. A-2 asi High Courtna thousadafam thokte.

Masigisu mathakta yanache aduda wakatloi asigi soi yaodaba maramsina yanache adu punna chatnahandaba yaro. Masigi maramdi yanache asida ahanba defendant na soi tou-i amadi taseng-tasengna mahakna lam adu wakatloi asida lupa 1,20,000/- da yonbada yanakhi takle. Yanache asigi matung inna Ext. A-2 na sel pikhiba amadi fangkhiba adu utli. Ahanba defendant ki soi adugi ahenbada receipt asida revenue stampsta wakatloi asina soi toubagi khutyek yaori. Mamangda pankhibagumna Ext. A-1 amadi Ext. A-2 asi hairiba leiba yonba asigi saruksingni. Maramsina Ext. A-1 da wakatloi asigi soi yaodabana yanache asi punna chatnahalloidabani haina yetliba wafam asi yafam thokte.

Masigisu mathakta DW-3 (ahanba defendant ki manaonupa) gi sakhi asina ahanba defendant ki Ext. A-1 da yaoriba soi asi semjinbani haiba wafam asi aranba tahalle. DW-3 da wahang paohang toubu matamda haikhibagi matung inna mahakna mahakki mayamba haibadi ahanba defendant ki soi asi masak khangba ngammi. Mahakna makha tana Ext. A-1 amadi Ext. A-2 animakta ahanba defendant ki soi yao-i haina yajakhi. Matangsida masi khangjinba yai madudi ing 1980 da ahanba defendant amadi DW-3 anigi marakta partition (khaidoknaba) ama toukhi, amasung hairiba khaidoknaba asi Ext. B-1 haibadi register toudaba khaina-che (partition deed) asigi matung inna pangthokpani. Ngakliba amana ahanba defendant na wahang paohang toubu matamda Ext. B-1 da yaoriba soi asi mahakkini haina yajakhi. Matou asumna asigumba ahanba defendant ki chayetnaba

amadi achumba soi ani asida mahakki manaonupana mahak masamakna toubagumna masak khangdokpa ngamle haibasi taseng-tasengle.

13. Chingnaba leitana, handwriting expert ki mot adu Evidence Act ki Section 45 ki makhada mari leinaba sakhi ama oire. Evidence Act ki Section 47 gi makhada kanagumba khut-i masak khangba mi-oi amana iriba khut-i adugi maramda piba mot asisu mari leinaba sakhi amani.

Evidence Act ki Section 47 gi matung inna kanagunba misak ama atoppa kanagumba misak amagi khut-i masak khangba mini haigani karigumba misak aduna mahakngonda a-iba pirakpa natraga mahak masamak natraga mahakki makhada leiba misak amana hairiba misak aduda karigumba a-iba ama pikhibagi paokhum phanglaba natraga hairiba misak aduda karigumba ama haikhiba natraga lallon-itikki, che changi a-iba misak aduna mahakngonda pirakhiba tarabadi.

14. Evidence Act ki Section 47 na masi tasenghalle madudi hairiba wafama asi atoppa mioi amagi khut-i masak khangliba misak adugi mot aduga leinaba marigi matangdani. Hairiba Section asigi sandokpa warolda misak amana asigumba khut-i masak khangbagi chapchaba oifam thokpa adu oinaba makhatana darkar leiba machaksing adu palli.

Houjik mangda leiriba pot asida, DW-3 na mahakki wahang paohangda mahakki mayamba haibadi ahanba defendant ki Ext. A-1 da yaoriba yetnariba soi adu masak khangle. Mahaknasu makhatana haikhi madudi hairiba wakat asida yaoriba yum asi mahakna chahi 25 surakpada shaki, ing 1980 da makhoi ani khaidoknakhi (partition toukhi), adugi matungda mahak amadi ahanba defendant na masa-masagi athungba yumgi saruksingda leinakhi amadi aroibada mahakki athungba saruk adu ing 1996 (mahakna chahi 58 surakpada) yonthokkhi. Masina makhatana DW-3 amadi ahanba defendant ani asi yum amattada chahi 30 muk henna leiminnakhi haiba utli. Masigisu mathakta, mamangda pankhibagumna, DW-3 na ahanba defendant ki Ext. B-1 (khaina-che) da yaoriba soi adu masak takle, hairiba soi asi ahanba defendant masamkna toukhibani. Mathakki wafam amadi DW-3 na mahakki mayamba ahanba defendant ki case asi sougatnaba wayensangi mamangda thorakhiba asidagi khangba ngamle madudi makhoi anigi marakta khaidoknakhraba (tonganna leinakhraba) matungdasu afaba mari leirammi amadi DW-3 da akonbagi asina tongan-tonganba emung manungi thouram kayagi maramdasu iraklammi. Matou asumna Evidence Act ki Section 47 gi sandokpa warol adu mapung fahanba oina mahakna ahanba defendant ki khut-i masak khang-i haibasi taseng-tasenghalle. Masina yetnariba khut-i asigi matangda mahakki mot (wafam) asi Section 47 gi matung inna mari leinaba sakhi ama oire.

Tanja asida sakhising asina yetnariba khut-i asida kaya yamna munna masak khangbage haiba adugi matung inna kanagi wafamdana henna lumna lougadage haina yengsinbana henna chanaba oigani. Maramsina masi sakhi piriba karamba mi-oigana henna toina thouramsing saruk yaminnakhiba amadi kanana mahakki khut-i henna masak munna khangba, misak aduna kayam yamna cheksinna yengsinba ngamba amadi kayam kuidribagi mamangda ukhiba haibadugi makha polli. Hairiba wafamsing asidagi DW-3 na henna ahanba defendant ki khut-i adu masak munna khangbana, eikhoina DW-3 gi warol asida chapchana thajaba yare amadi akhang aheigi sakhi adudagi mahakki wafam asina henna lumna loufam thok-i. Waroisin asi tarakpagi maramdi ahanba defendant ta amuk hanna hallaga yengsinbagi ayaba pirabasu mahakna DW-3 gi wafam asibu yadaba toude aduga khut-i masak khang-i hairiba aduda yetnabasu leite.

15. DW-3 na pisillakhiba warol asi wakatloi (PW-1) amadi sakhising (PWs 2 amadi 3) amasung ahanba defendant na Ext. A-2 (sel fangbagi receipt) da yaoriba mahak masagi soi adu yadaba toude haiba maram chaba amadi lengdraba warolsing asina makhatana sougatli. Leiriba sakhising amadi machaksing asi yenglaga Ext. A-1 da yaoriba ahanba defendant ki soi asi achumbani haina eikhoina waroisin tare. Masinasu makhatana akhang aheigi sakhina lengdana leiraba sakhising asidagi henna

lumna loufam thokte haiba wafam asi wakhalda thamladuna eikhoina khannabagi matung inna High Courtna akhang ahei (DW-2) gi sakhi aduda henna lumna louraga amadi mahakki warolda chapchana thajaduna Trial Court ki rai amadi yathang adubu kakthatpa haibasi achumba natte.

Hiram khudingmakta eikhoigi wakhal asi mapung fanabagidamakta eikhoina asengba amadi yetnariba soising adu kupna yengsinjare amadi hairiba soising asi amaga-amaga eman mannei. Adum oinamak, mathakta khannakhibagumna, case asida eikhoina changdamnaraga yengjariba asina sakhi leiriba machaksing asidagi henna lumna loufam thokte. Eikhoina changdamnaraga yengjariba asina maram oiraga sakhising asidagi henna lumna louduna bhabna sagatlaga eikhoigi oiba waroisin amada lakkhiba leite.

16. DW-2 gi wafam aduda chapchana thajadanaba maram amasu lei. Ext. B-2 gi warol adu kupna yengsinbadagi khangba ngamle madudi mamangda pisillakkhiba a-iba wakat amada soi yaohandana tharakkhi aduga ahanba defendant ki pisillakkhiba soising adu wakat asi thajillaklaba matungda pirakpani (haibadi vakalatnama amadi wakat asida yaoriba a-iba warolsingda). Asigumba wakat asi tharaba matungda pisillakkhiba soising asi changdamnabagi chatnaba yaba ma-ong ama oina loubu yaro amadi hiram asida masi sijinnabana Ext. B-2 gi mapung oiba warol aduda chingnaba pokhalle. Matou asumna, maramsikhakna warol (report) asi kakkpigi matik charabani amasung masida High Courtna lanna thajarambni.

17. Masigisu mathakta wakatloi asina yum yonbagi yanache adu inaraba matungda thabak adu pangthoknaba takshinkhi haibagi praman pinaba sakhi amatta puthokkhide haina High Courtna lanna khankhi. Karigumba pot ama yonbagi inakhiba yanache amagi mathakta akhannaba thabak paikhatpinaba darkhast thaba asi Specific Relief Act, 1963 gi Section 16(c) na ayaba piri, hairiba asi Schedule of the Limitation Act, 1963 gi Article 54 dasu yaori. Masigisu mathakta Code of Civil Procedure, 1908 ki Appendix A gi Form 47 amadi 48 na asigumba wakat ama thangatpigi chatna kanglon adu piri. Matou asumna yanache amada akhannaba thabak paikhatpinaba wakat thaba matamda hairiba darkar leibasing asi mapung fana pangthokkadabani. Houjik mangda leiriba wafam asida wakatloi asina ing 20.04.1993 da inakkhiba leiba yonbagi yanache aduda yaoriba mahakki tougadaba thoudang adu pangthokpigi apamba amadi sem saduna leirammi haina mayek sengna mahakki wakat asida iri. Masimasu akaknana palli madudi ahanba *defendant*ta lupa 58,800/- asi wakatloi asina pikhirammi amadi mahakna sel puthoklaga register touraba yonbagi yanache (sale deed) ama inarammi adubu ahanba defendant asina leiba yonbagi yanache aduda iriba warolsing adu pangthoksi haiba yaramde. Masidagi eikhoina khannarabagi tungda khangle madudi wakatloi asina akhannaba thabak paikhatpinabagi yathang ama fangnabagidamakta tougadaba niyamsing adu pangthokle amasung mapung fahalle. Masigi mathakta chinhaina taksingbagi praman amafaoba leite. Oiningba oirasanu, wakatloi asina ahanba *defendant*ta pigadaba senfam adu matik chana lei amadi mahakna yanache aduda yaoriba mahakki thoudang adu pangthokpigi apamba amadi sem saduna leirammi haiba sakhi asidagi eikhoigi apenba oire.

18. Mathakta pankhriba maramsing asi yenglaga High Courtki chayetnaba rai adu kakthatpigi matik chare. Masiga loinana Trial Courtki pikhiba rai amadi yathang adu amuk hanjinhalle. Loinana hairiba darkhast asibusu ayaba pire.