

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 22242 of 2013

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Arvind Kumar Son Of Late Mewalal Sao R/O Village - Ramchandrapur Sathopur
Block, Biharsharif (Opp. Durgasthan) District - Nalanda, Bihar

.... Petitioner/s

Versus

1. The State Of Bihar through Its Principal Secretary, Department Of Registration,
Govt. Of Bihar
2. The Inspector General of Registration, Government of Bihar, Patna
3. The District Magistrate, Nalanda, Bihar
4. The L.R.D.C. Biharsharif, District - Nalanda, Bihar
5. The Circle Officer, Biharsharif, Nalanda, Bihar
6. The Sub-Registrar, Biharsharif Sub-Registry Office, Nalanda

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Rajeev Kumar Verma, Sr Advocate with
Mr Karuna Nath Sahay, Advocate

For the Respondent/s : Mr Pramod Kumar, AC to GA VIII

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH

ORAL JUDGMENT

Date: 28-05-2015

An application for amendment of the writ petition has
been filed being IA No 3737 of 2015 making additional prayers and
seeking additional reliefs.

2 Having heard the learned counsel for the petitioner
and learned counsel for the State, the same is allowed. Let IA No
3737 of 2015 be treated as part of the application.

3 IA No 3737 of 2015 has been filed by the petitioner
stating that he had intended to sell part of his land which is not
permitted to be registered by the District Registrar on the ground that

the said land as per cadastral survey of the year, 1909 shows it to be Ghair Mazarua Aam land.

4 A counter affidavit has been served on the petitioner. The facts are not in controversy. Instead of passing interim order, parties agree that the writ petition be heard for its final disposal at this stage itself.

5 There is no dispute that in the cadastral survey, which is of the year, 1909 or nearabout, the land in question was shown as Ghair Mazarua Aam land. There is no dispute that the landlord, at that time, had made settlement of these lands to private persons and ultimately having changed hands, it came to the uncle of the petitioner by virtue of a sale deed duly registered in 1958. Upon his death, there was a partition in the family and 21 decimals were allotted to the share of the petitioner's father Mewalal Sao and after his death, it devolved upon the petitioner. Petitioner has annexed Annexure 10, an order passed in public land encroachment proceedings under the Bihar Public Land Encroachment Act wherein in 1979, an encroachment proceeding was initiated in support of the said land holding that it was public land in unauthorized occupation of petitioner's father. Petitioner's father appeared and filed all papers and after examining the entire matter, the State authorities clearly held that over the several decades, the nature of land had changed and the

land was duly mutated in the name of the predecessor-in-interest of the petitioner's father. It ceased to be a public land in any manner. This order of the year 1980, as appended as Annexure 10, attained finality. Now, after 35 years of this order, again the same plea is being raised and this time by the District Registrar, when for marriage of his daughter, petitioner wants to sell $\frac{1}{2}$ a decimal of the said 21 decimals of land.

6 Mr Rajeev Kumar Verma, learned Senior Counsel places reliance on a Division Bench judgment of this Court in the case of *Bihar Deed Writers Association & Others –Versus- State of Bihar & Others* since reported in *AIR 1989 Patna 144*. This Court has categorically held that it is not open to the Registrar to question the title or authority of the person selling the land and making him establish his title before he would register a document. All that he has to see is the seller, the buyer are genuine persons and the land has been properly described and consideration passed. I have not been shown any provision of law, as contained in the Registration Act, which authorizes the Registrar to enquire the right, title and interest of the person who is selling the land.

7 In that view of the matter and in view of Annexure 10, having attained finality, there cannot be any reason on the part of the Registrar much less legal authorities to refuse registration. The

deed of sale which has been presented for registration is Annexure 12 dated 08.04.2015 to the interlocutory application aforesaid.

8 Having considered the matter as aforesaid, I, accordingly, direct the Registrar to allow registration of the aforesaid document upon its correct stamping and complying with other formalities.

9 Consequently Annexure 1 is set aside and with the aforesaid direction, the writ petition stands disposed of.

(Navaniti Prasad Singh, J)

M.E.H./-

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