

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15414 of 2009

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Pradhan Anil Kumar S/O Late Pradhan Kanhaiya Prasad R/O Bindhyawasini
Market, A.G. Colony, Main Road, Krishi Nagar, Patna-25

.... Petitioner/s

Versus

1. Zonal Manager Punjab National Bank R-Block Crossing, Patna
2. The Chief Branch Manager, Punjab National Bank, Boring Road, Patna
3. Sr. Manager, Punjab National Bank, Raja Bazar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ramesh Jha, Advocate
For the Respondent/s : Mr. Mahesh Narayan Parbat, Sr. Advocate
Mr. Sanjay Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT
Date: 05-02-2015

Heard the parties.

2. The petitioner has filed the present writ petition under Article 226 of the Constitution of India seeking a direction to the respondent no.2 to return him the original sale deed no.2936 with respect to khata no. 23, plot no. 420 area 3.3/8 decimals situate at Patna Municipal Ward No. 34 under Patna town.

3. Learned counsel appearing on behalf of the petitioner submits that in the year 1982 the petitioner was sanctioned a term loan of Rs.5000/- by the Punjab National Bank, Boring Road Branch, Patna (in short “the Bank”) for running his business styled as Anil Trading, Budha Marg, Patna. It is the case of the petitioner that for grant of aforesaid term loan amount, in surety, the original title deed, as mentioned above, was deposited by his father with the Bank on 13.07.1982 and a receipt to that effect was issued by the Bank on 10.08.1983. It is also the case of the petitioner that the entire loan amount was re-paid by him to the Bank in the year 1983 itself and made a request to return the original sale deed. The father of the

petitioner passed away in the year 1998, and despite several communications, the Bank has not returned the original title deed till date. Therefore, the petitioner has filed the present writ petition.

4. A counter affidavit has been filed on behalf of the respondents, after service of its copy upon the learned counsel appearing on behalf of the petitioner. In the aforesaid counter affidavit, the claim raised on behalf of the petitioner regarding non-returning of the title deed in question has been seriously disputed and controverted. Learned senior counsel appearing on behalf of the respondents submits that it is true that in the year 1982, the writ petitioner was sanctioned a term loan of Rs.5,000/- for running his business and father of the petitioner namely, Pradhan Kanhaiya Prasad had created an equitable mortgage by depositing the aforesaid title deed.

5. It is admitted by the respondents that the loan amount was re-paid by the petitioner and it was finally adjusted in the year 1983. In paragraph 7 of the counter affidavit, it has been asserted that the original sale deed, which was deposited by the father of the petitioner, was returned to him after re-payment of the entire loan amount. It is also the claim of the respondents that during the life time of his father, the petitioner did not raise any such claim for returning of the aforesaid sale deed and only after his death, the petitioner has started raising the claim for returning of original sale deed. It has further been stated in paragraph 8 of the counter affidavit that the records of 1983 are not available in the Bank as the same were destroyed as per norms of the Bank.

6. After having heard the parties, this Court finds that the claim raised on behalf of the petitioner in the present writ petition is based on a disputed question of fact. This Court further finds that the

writ petition suffers from delay and laches. Admittedly, the loan amount was re-paid by the petitioner in the year 1983. The present writ petition was filed in the year 2009 i.e. almost after delay of twenty five years.

7. For the aforesaid reasons, this Court is of the opinion that the relief sought for on behalf of the petitioner cannot be granted in the present proceeding.

8. In the result, the writ petition has to fail and is, accordingly, dismissed, but without costs.

9. However, the petitioner, if so advised, may approach the civil court of competent jurisdiction for grant of appropriate relief on the basis of evidence produced by the parties. If such a civil suit is filed, the same shall be considered and decided strictly in accordance with law, but without being prejudiced or influenced by the present order.

(Birendra Prasad Verma, J)

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