

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1822 of 2015

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Ashok Kumar, aged about 46 years, son of Late Lakhan Prasad, Resident of village Sarauti, P.S.- Pachrukhi, Siwan.

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Collector, Siwan.
3. The Deputy Collector, Land Revenue, Siwan.
4. The Circle Officer, Siwan.
5. The Sub-Registrar, Registration Department, Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Shrivastava

For the Respondent/s : Mr. GP28- SMT. GEETA KUMARI

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 02-02-2015

Heard Counsel for the petitioner and the State. With the consent of the parties, the writ application is being disposed of at this stage.

Petitioner is aggrieved by Annexure-7 which is a web copy of Restriction Register prepared and maintained by the Registration Department. The land of the petitioner appertaining to Plot no. 1123 and 1116, Khata no. 214 situated within Panchrukhi Circle, Mauza Sarauti, Thana No. 367 in the district of Siwan have been incorporated therein restricting the petitioner from alienating the land.

The contention of the petitioner is that the dispute in respect of the suit land between the ancestor (grandfather of the petitioner) and the State became the subject matter of Title Appeal No. 167/40 of 1967/73. The learned 2nd Additional Subordinate Judge,



Siwan by judgment dated 22.12.1975 (Annexure-1) allowed the appeal and set aside the order passed by the learned Munsif and held the title of the appellant over the suit land and confirmed their possession inasmuch as the State respondents were permanently restrained from interfering with the possession of the appellants. It is further contended that earlier also such restriction on alienation of part of the suit land was imposed whereafter the petitioner filed an appeal before the Collector-cum-District Registrar. The said matter remained pending for some time but ultimately by order dated 22.1.2009 (Annexure-4A), the District Registrar granted the permission. The petitioner thereafter alienated part/portion of the suit land. In support thereof, diverse sale deeds have been enclosed. Now by virtue of the inclusion of the land of the petitioner in the Restriction Register web copies whereof have been enclosed as Annexure-7, it has been submitted that the petitioner has been arbitrarily restrained from alienating the suit land. The writ petitioner, therefore, seeks a direction upon the respondents to allow the petitioner to sell his land appertaining to Khata no. 214, plot nos. 1123 and 1116.

From own showing of the petitioner, it appears that earlier he was restrained from alienating the suit land treating the same as Gair Majarua Khas. The petitioner approached the Collector-cum-District Registrar against such entry of the land in the Restriction Register (*Roksuchi*) whereafter an order was passed permitting him to alienate the land. In this view of the matter, the petitioner should

approach against inclusion of the lands of the petitioner in the Restriction Register (vide Annexure-7) before the respondent Collector-cum-District Registrar. If any such application is filed, the Collector-cum-District Registrar shall consider the same and take appropriate decision thereon.

Counsel for the petitioner has submitted that on earlier occasion when such application was filed, matter remained pending before the Collector-cum-District Registrar for a long period of time. Taking into account the aforesaid submission of the petitioner, this Court would direct the Collector-cum-District Registrar to take appropriate decision on the application/appeal to be filed by the petitioner within five weeks from the date of filing. In case the Collector-cum-District Registrar fails to pass appropriate order on the representation/appeal filed by the petitioner within the aforesaid time, the inclusion of the lands of the petitioner in Annexure-7 shall not come in the way of the petitioner from alienating those lands as per his choice.

The writ application is disposed of with the aforesaid observation and direction.

(Kishore Kumar Mandal, J)

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