

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Civil Writ Petition No.10228 of 2013

Date of decision: 20.01.2015

Tejpal and another

... Petitioners

versus

State of Haryana and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: None for the petitioners.

Mr. Keshav Gupta, Assistant Advocate General,
Haryana.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. (Oral)

1. The prayer in the writ petition is to quash the orders passed by respondents 3 and 4 declining to register lease deed executed by petitioner No.1 in favour of petitioner No.2. The initial order which was passed by the Joint Sub Registrar was the registration of lease deed which was refused on the ground that the panchayat had passed a resolution challenging the lease deed and there was an issue of title which was involved. A refusal for registration of a document could be made under Part XII of the Registration Act only under the circumstances which are permissible under Section 71 or in a situation arising under Section 73 of the

Registration Act. In a case where the Sub-Registrar refuses to register a document when the executant declines to admit execution, then the Registering Officer could do no more than allowing for the matter to be placed before the Registrar who will hold an enquiry and direct registration or otherwise depending on whether the person shown as an executant had actually executed the document or not. The other grounds for refusal could be instances where the identity of the executant itself is not available and the Registering Officer exercising his rights for presenting documents for registration under Part VI finds that it could not be registered under any of the circumstances mentioned under Section 34 of the Registration Act. A person, who is aggrieved, will have a power to have the order set aside in a regular suit instituted under Section 77 of the Registration Act. I have outlined various provisions of the Registration Act only to underscore the point that the Registrar cannot join issues on title for refusing to register the instrument. That shall be the exclusive domain of a civil court in a proper litigation that is brought between parties who are at lis raising the dispute regarding title. A dispute on title can never be used before a Registrar by any party. If the panchayat has a grievance that the petitioners 1 and 2 are entering into a transaction relating to the property belonging to the panchayat, it can only have a relief in a civil court where it could seek for a declaration that the property belongs to it in which case

the lease will come to nothing for a lease involves a transfer of property and a lessor cannot transfer any right of what he does not possess. Such an eventuality would obtain only where a lessor's right is declared in some proceedings which is competent to declare the issue on title. A decision taken by the Sub-Registrar and the Appellate Authority are incompetent and without any jurisdiction. The impugned orders are quashed.

2. There is a Bench ruling of this court in **Hari Singh and another Versus Sub-Registrar, Narnaul and others-1998(3) PLR 787** where the above said provisions of the Registration Act have been examined and has held that the Registrar has no power to probe into the ownership of the property sought to be transferred in any manner.

3. There shall be a mandate to a Registering Officer to register the document which is placed before him and if it has been withdrawn to the custody of the petitioners themselves after the impugned orders, they will be presented before the Registrar and the Registering Officer will carry out the formalities of registration in accordance with law.

4. The writ petition is disposed of with the above observations.

(K.KANNAN)
JUDGE

20.01.2015
sanjeev