

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12313 of 2016

Principal Insan College through Dr. Umar Shees, Son of Md. Shees, resident of Haroon Colony, P.S. + P.O. Phulwari Sharif, District – Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Additional Inspector General of Registration, Bihar, Patna.
3. The District Registrar, Kishanganj.
4. The District Sub Registrar, Kishanganj,
5. Md. Nazamul Haque, Son of Late Zainul Haque.
6. Hafizul Haque, Son of Late Zainul Haque.
7. Fazley Haque, Son of Late Zainul Haque.
8. Qudratey Haque, Son of Late Zainul Haque
9. Jamaley Haque, Son of Late Zainul Haque.
10. Bibi Hameeda, Wife of Late Zainul Haque.

Respondent Nos. 5 to 10 are resident of Line, Kishanganj, P.S. Kishanganj, District – Kishanganj.

.... Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajendra Narain, Sr. Adv. With Mr. Anuj Dilbar Krishna, Adv.
For the Respondent/s	:	Mr. Anil Kr. Sinha, GA-1 Mr. Nikhil Agrawal, AC to GA-1

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 23-09-2016

Learned counsel for the parties are present.

The petitioner prays for a direction to the respondent(s)

3 and 4 for registration of sale deed present at Annexure-2.

Admitted position is that the sale deed was executed by six persons but one of them did not appear at the time of presentation and the District Sub-Registrar relying upon Section 34 of the Registration Act, 1908 (hereinafter referred to as ‘the Act’), has refused to register the sale deeds.

It is rather surprising that the sale deed was presented for registration in the year 1982 with the refusal made on

18.2.1983 as manifest from the remark present at page 21 of the proceedings, yet the petitioner sat back for almost 34 years to raise a grievance.

A stand is taken that appeal was filed but again no copy thereof is annexed in the present proceeding. It is next stated that it is upon invoking the Right to Information Act, 2005 when the information has been given by the District Sub Registrar vide his communication dated 21.5.2014 present at Annexure-4 regarding refusal in reference to the provision underlying Section 34 of 'the Act' and paragraph-137 of 'the Act' and which is the cause of action.

Mr. Narain, learned senior counsel appearing for the petitioner, has tried to question the exercise by relying upon the instruction present at paragraph-137 of the Bihar Registration Manual but in my opinion the instruction also makes no departure from the legal position as emanating from the provisions of Section 34 of 'the Act' which specifically provides that unless the persons executing such documents or their representatives, assigns or agents authorized as aforesaid, appear before the Registering Authority within the time allowed for presentation under sections 23, 24, 25 and 26, no document shall be registered under 'the Act'. Though the statutory provision is also accompanied with some exceptions but even in such cases the stipulations that needs to be

satisfied, are mandatory. Even paragraph-137 of the instructions in the Bihar Registration Manual so relied upon by Mr. Narain after noticing the various eventualities, concludes that if any of the executant does not appear and steps have not been taken to procure his attendance then the document cannot be registered.

A plain reading of the statutory provisions aforequoted makes it eloquent that if one of the many executants do not appear at the time of presentation before the District Registrar/District Sub Registrar, the deed cannot be acted upon and thus the order passed by the District Sub Registrar in refusing to register the deed in question impugned in the present case, suffers no infirmity, warranting interference.

The writ petition is dismissed accordingly.

(Jyoti Saran, J)

deepika/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	04.10.2016
Transmission Date	