

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9181 of 2016

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1. Ram Khelawan Prasad @ Ram Khelawan Sah.
 2. Rajendra Prasad Both sons of Late Budhu Sao, Resident of village- Murarpur, P.O.- Biharsharif, P.S.- Laheri, District- Nalanda.

.... 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 Deputy Collector Land Reforms, Biharsharif, Nalanda, Bihar.
5. The District Registrar, Nalanda.
6. The Circle Officer, Biharsharif, Nalanda, Bihar.
7. The District Sub Registrar, Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Dubey
Mr. Karuna Nath Sahay

For the State : Mr. Manish Kumar, Advocate, AC to AAG-6

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 09-09-2016

Learned counsel for the petitioner is permitted to add the District Sub Registrar as party respondent to the present proceeding.

Heard Mr. Ranjan Kumar Dubey, learned counsel appearing for the petitioner and Mr. Manish Kumar, AC to AAG-6 for the State.

The petitioner while questioning the order of the Department of Registration, Government of Bihar bearing letter no.1751 dated 9.11.2012 in so far as it relates to land bearing Khata No.180, Plot No.669 and Khata No.181, Plot No.671 and 825 is concerned, also prays for appropriate direction to the authorities of the department including the respondent no.5 as well as the District

Sub Registrar, Nalanda to register the sale deed placed on record vide Annexure-11 and 12 to the Interlocutory Application bearing I.A. No.-5834 of 2016.

Mr. Dubey, learned counsel appearing for the petitioner in reference to the pleadings present at paragraph-4 onwards to the writ petition, has explained as to how the land in question has devolved on the petitioner. He refers to a decision of this Court rendered in a case arising from CWJC No.22242 of 2013(Arvind Kumar vs. State of Bihar) placed at Annexure-11 to submit that facing identical situation where the District Registrar/Sub Registrar had refused to register the sale deed executed by the said Arvind Kumar in reference to the letter of the Registration Department dated 9.11.2012 placed at Annexure-1, that this Court in consideration of the facts involved and the law laid down by this Court in the case of **Bihar Deed Writers Association Others vs. State of Bihar & Others** since reported in **AIR 1989 Patna 144** has upheld the claim of the said writ petitioner, to declare the refusal by the Registration Department to register the sale deed, as an arbitrary act, *de hors* the legal position as well as contrary to the judicial pronouncement.

Mr. Dubey has also referred to the counter affidavit to submit that whereas the deponent Sub Registrar at Paragraph-6 of the counter affidavit has admitted that the sale deed in question was produced by the petitioner no.1 for registration but which upon enquiry, was returned to him in view of the letter no.1751 dated



9.11.2012. I am rather surprised at the arrogance of the District Sub Registrar as reflecting in paragraph-10 of the counter affidavit in which while denying that any such sale deed was presented by the petitioner before the District Registrar, he, even while noting the judgment relied upon by the petitioner, proceeds to submit that each case would stand on its own merit. It is the argument of Mr. Dubey that the petitioner in CWJC No.22242, Arvind Kumar, is the nephew of these petitioners and it is on the refusal of the District Authorities of the Registration Department in refusing to register a portion of the same plots which are the subject matter of the sale deeds executed by these petitioners, that he came before this Court and the action of the respondents was struck down. According to Mr. Dubey, the case of the two petitioners herein is squarely covered by the opinion expressed by the Bench in CWJC No.22242 of 2013 present at Annexure-11.

While Mr. Manish Kumar, AC to AAG-6 for the State, has tried to support the impugned action of the respondent authorities in reference to the status of the land since reported by the Circle Officer and in reference to the letter no.1751 dated 9.11.2012 impugned at Annexure-1 of this writ petition but in my opinion the attempt is futile as once the issues has been adjudicated upon by this Court in respect of the very same plots as well as in consideration of the very same objection arising from the letter no.1751 dated 9.11.2012, the action of the District Registrar/Sub Registrar,

Nalanda in refusal to register the saledeeds placed on record vide Annexure-11 and 12 to I.A. No.5834 of 2016, respectively is not only illegal but would amount to contempt of the opinion of this Court rendered in the case on Arvind Kumar (supra), which judgment would squarely cover the case of the petitioner.

For the reasons and discussion aforementioned, the writ petition is allowed.

The District Registrar/Sub Registrar, Nalanda are directed to register the saledeeds so presented by the petitioner placed on records vide Annexure-11 and 12 to the Interlocutory Application forthwith without causing any unnecessary delay and within a period of two weeks from the date of receipt/production of the copy of this order.

Interlocutory Application No.5834 of 2016 stands disposed of.

(Jyoti Saran, J)

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CAV DATE	
Uploading Date	24.9.2016
Transmission Date	