

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11853 of 2014

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Hira Lal Jha, son of Jaidev Jha, resident of mohalla Parkha Toli, P.O. and P.S. Sadar, Muzaffarpur, district Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Cooperative Department, Bihar, Patna
2. The Registrar, Cooperative Societies, Bihar, Patna
3. The Additional Registrar, Cooperative Societies, Bihar, Patna
4. The Joint Registrar (Head Quarters) Cooperative Societies, Bihar, Patna
5. The District Cooperative Officer, Patna
6. The Assistant Registrar, Cooperative Societies, Patna Circle, Patna
7. The Ram Nagari Sahkari Grih Nirman Samiti Ltd., Ram Nagri, P.S.- Patna through its Secretary, Devi Asthan (House of Late Dhaneshwar Prasad), Punai Chak, Patna
8. Indu Sharma, wife of Akhilesh Kumar Sharma, resident of village Godhana, P.S. Bihta, district Patna
9. Neeta Kumari Gautam, wife of Sri Ajay Kumar Gautam, resident of village Ank Korha, P.S. Obera, District- Aurangabad

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rakesh Kumar Jha, Advocate
For the State	:	Mr. Indradeo Prasad, SC-27
For the Respondents No. 8 and 9	:	Mr. Yogendra Mishra, Advocate
		Mr. Arvind Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 28-08-2017

Heard learned counsel for the petitioner, State and respondents no. 8 and 9.

2. The petitioner has moved the Court for the following reliefs:-

“That the petitioner prays for issuance of an appropriate writ/direction/order:

(A) Quashing the order dated 08.07.2013/31.07.2013 of respondent no. 2, the Registrar, Cooperative Societies, Bihar passed



in Revision Case No. 168 of 1999(Indu Sharma & Others Vs Hira Lal Jha and others) by which he has illegally and arbitrarily, without quashing or revising the impugned order dated 15.6.1999 of Respondent no. 4 has held that the sale deed executed on 19.04.1988 in favour of respondent no. 8 is valid and that the sale deed executed on 8.9.1988 in favour of the petitioner is invalid.

(B) Quashing the order dated 30.01.2014 of Respondent no. 2, the Registrar, Cooperative Societies, Bihar issued under memo no. 121 RL dated 19.02.2014; and

(C) Any other relief which in the facts and circumstances of the case may be deemed necessary and appropriate by the Hon'ble Court."

3. The issue relates as to whether the petitioner, who may have given the money for taking the plot in question, not being a member, still sale deed of a plot belonging to the Ram Nagari Sahkari Grih Nirman Samiti Limited (hereinafter referred to as the 'Society') could be transferred in his favour and if so, what remedy he has in law.

4. Learned counsel for the petitioner submitted that by the said order even the registered sale deed in favour of the petitioner has been declared to be invalid by the Registrar, Cooperative Societies, Bihar, Patna, which is beyond jurisdiction. For such proposition, he has relied upon a decision of a coordinate Bench of this Court in the case of **Swati Pandey v. Registrar, Co-operative**



Societies reported as **2007(2) PLJR 525**, the relevant being at paragraph no. 17.

5. In the considered opinion of the Court, if the petitioner was not a member of the Society, even if he has given money on behalf of his wife who is said to be a member, unless the due procedure of law was followed and the petitioner validly enrolled as a member, valid transfer of any land belonging to the Society could not have been made in his name. However, if the petitioner has paid the money, he is entitled to be compensated, either by an equivalent plot of land being transferred in the name of his wife on whose behalf he has been paid or the money being refunded to him.

6. Thus, for such cause of action, the petitioner has to move before the appropriate forum, in accordance with law, to get the said matter thrashed out as it would be dependent upon facts for which evidence has to be adduced and findings given thereupon and the writ court may not be a proper forum.

7. Learned counsel for the petitioner submitted that the writ petition be disposed off with such liberty.

8. In view thereof, the writ petition stands disposed off with liberty aforesaid.

9. If the petitioner moves before the appropriate forum in the matter, within four weeks from today, it shall be decided on



merits, after giving opportunity of hearing to all parties concerned, expeditiously. However, as the law is settled, the Registrar, Cooperative Societies has no power or jurisdiction to declare any registered sale deed to be invalid, to such extent, the order impugned stands set aside. It is made clear that no finding recorded in the order impugned of the Registrar-cum-Cooperative Societies with regard to the sale deed of the petitioner being invalid shall prejudice the petitioner in any proceeding which may be instituted by him with regard to his claim against the Society based on such sale deed.

(Ahsanuddin Amanullah, J)

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