

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 3635 of 2014

Along with
Interlocutory Application No. 6907 of 2017

=====

Sunder Giri, Chela of Late Harihar Giri, Resident of Village and P.S. - Bodh Gaya,
District – Gaya.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Revenue and Land Reforms, Govt. of Bihar.
3. The District Magistrate, Gaya.
4. The Collector, Gaya.
5. The Registrar, Gaya.
6. The Sub-Registrar, Sadar Gaya.
7. The Deputy Collector, Land Reforms, Gaya.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Sidharth Prasad, Advocate,
Mr. Shyameshwar Kumar Singh and
Mr. Om Prakash, Advocates

For the State : Mr. Durgesh Nandan, AAG-14
Mr. Jitendra Kumar, AC to AAG-14

=====

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 03-10-2017

Heard learned counsel for the petitioner and the State.

2. The petitioner has moved the Court for the
following relief:

“That this is an application



praying for issuance of a writ in the nature of a writ of mandamus commanding the respondent District Sub-Registrar, Gaya to admit the absolute sale deed of conveyance executed between the instant petitioner alongwith three others as confirming parties, and Japan-India Medical Trust to proceed with the registration of the document which relates to lands situated within the jurisdiction of District Sub-Registrar, Gaya”.

3. Further, in view of the orders passed by the Collector and a Trainee Officer, dated 21.12.2012 and 31.12.2012, by which, as an interim measure, a ban has been put with regard to the registration of document relating to the land claimed by the petitioner, the same have been challenged in Interlocutory Application No. 6907 of 2017 but in view of the parties having agreed for disposal of the writ petition itself, no order is required to be passed on the Interlocutory Application, which stands disposed off.

4. In sum and substance, the grievance is that a duly executed sale deed presented before the registering authority has not been entertained on the ground that there has been stay by the superior district officials.

5. The petitioner claims to be the owner of 9.27 acres of land detailed in the order of the respondent no. 7 by which rent



has been fixed after mutation with regard to land pertaining to Thana No. 359, Khata No. 964 of 12 plots. In the present case, the plot in question is 939 which has a total area of 3.74 acres, as per the records, out of which an area of 1 acre 11.5 decimals was sought to be transferred through a deed of absolute sale in favour of a third party. The refusal of the same has led to filing of the present writ application.

6. Learned counsel for the petitioner submitted that though the petitioner was the owner of a total of 19.29 acres, but due to acquisition of 6.42 acres of land under the ceiling proceeding and further 3.6 acres settled with persons belonging to the *Mahadalit* family for which *Basgit Purcha* has also been issued, even the authorities accept that 9.27 acres remains unacquired either by ceiling proceeding or settlement. Learned counsel submitted that from the averments made in the counter affidavit and its tenor, it appears that the authorities are in fact wanting to protect the genuine interest of the petitioner by ensuring that persons unconnected or having no right or title over the land do not get any benefit by fraud through forged power of attorney. Learned counsel submitted that the petitioner is ready to appear in person before the registering authority so that the authorities are satisfied that the said transfer is without any coercion and as per his free will.



7. Learned counsel for the State submitted that there was report regarding various persons fraudulently trying to get the land registered through forged and fabricated power of attorney and thus to prevent such fraudulent transactions, the authorities were forced to take the interim measure of staying any such transfer by the registering authority. However, a categorical stand was taken before the Court by learned counsel for the State that there is no dispute with regard to the ownership of 9.27 acres of land by the petitioner pertaining to Plots No. 832, 839, 850, 787, 843, 822, 939, 819, 814, 878, 818 and 863 of Khata No. 964, Thana No. 359 for a total area of 9 acres 27 decimals. Learned counsel for the State further took the stand that the genuineness of the transaction being established, the registering authority shall have no objection to register the document, if presented in accordance with law.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the writ petition stands disposed off on the following agreed terms:

It shall be open to the petitioner to present a deed of transfer in favour of any party, by him in person. Upon the same being done, in accordance with and after satisfying all the legal requirements as per the relevant statutes, including The Registration Act, 1908 as well as The Indian Stamp Act, 1899, the registering



authority shall proceed to register the document, in accordance with law, after being satisfied about the identity of the petitioner and also about him executing the document without any inducement, threat or coercion and after receiving the full consideration amount.

(Ahsanuddin Amanullah, J.)

Anand Kr.

AFR/NAFR	
U	

