

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13806 of 2015

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Reeta Devi Wife of Sri Bipin Kumar resident of Mohalla - East Ram Krishna
Nagar, P.O. New Jaganpura, P.S. Ram Krishna Nagar, District - Patna

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Collector Cum District Magistrate, Patna
3. The Sub Registrar, Patna
4. Sri Arun Kumar Singh Son of Late Deo Krishna Singh Resident of Bhelwara,
P.S. Mitanchak, P.S. Gopalpur, District - Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Jasbir Singh Arora, Sr. Advocate Mr. Manoj Kumar
For the Respondent/s	:	Mr. Anil Kumar Singh, AC to GP 26

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 05-02-2019

Heard Mr. Jasbir Singh Arora, learned Senior
Counsel for the petitioner, Mr. Anil Kumar Singh, learned AC
to GP-26, for the Respondent-State and Mr. Shyam Sundar
Prasad, learned counsel for Respondent no.4.

The present writ application has been filed for
quashing the order dated 27.06.2014, passed in Registration
Case No. 05 of 2014-15, by Respondent no.2, the Collector-
cum-District Magistrate, Patna, as contained in Annexure-3,
whereby the application preferred against the order dated
22.05.2014, passed in Registration Case No. 03 of 2014 by
Respondent no.3, the District Sub-Registrar, Patna, has been



rejected. Further prayer has been made for a direction to the Respondent authorities to direct the Respondent no.4 to execute the sale deed in favour of the petitioner with regard to the properties in question. The relief prayed for in paragraph 1 of the writ application reads as follows:

“1. That the present application is being preferred on behalf of the petitioner above named for issuance of appropriate writ/writs, order/orders, direction/directions for the following reliefs:-

i) For quashing the order dated 27.06.2014, passed in Registration Case No. 5 of 2014-15 the Court Learned Collector cum district Magistrate, Patna whereby the application preferred against the order dated 22.05.2014 passed in Registration Case No. 3/2014 by the District Sub-Registrar, Patna was rejected.

ii) Also for commanding the respondent authorities to direct the private respondent to execute the sale deed in favour of the petitioner with regards to the properties as detailed in Schedule-I of the said application.

iii) Also for any other appropriate relief(s) to which the petitioner is found entitled either in the eye of law or in the facts and circumstances of the case.”

The factual matrix of the case as per the



petitioner is that private Respondent no.4 agreed to sell a piece of land appertaining to Revenue Thana No. 100, Tauzi No. 5818, Khata No. 144, Survey Plot No. 48 (part), measuring an area of 2 Kattha 6 Dhur, situated in Mauza Belwara, Survey Thana Phulwarisharif, recent Thana Gopalpur, District Patna, in favour of the Petitioner. The Respondent no.4, after receiving entire consideration amount of Rs. 17,25,000/-, agreed to appear before the Sub-Registrar and to execute the sale deed with regard to the land in question by putting his signature. The petitioner presented the sale deed before the Sub-Registrar on 26.11.2013, but the Respondent no.4, with ulterior motive, did not appear. Accordingly, the petitioner filed petition under Section 36 of the Indian Registration Act (hereinafter referred to as 'the Act') before Respondent no.3, the Sub-Registrar, Patna, but despite issuance of summons to the Respondent No. 4, vide Memo No. 11663 dated 27.11.2013, Memo No. 12210 dated 10.12.2013, Memo No. 899 dated 22.01.2014, Memo No. 2220 dated 22.2.2014 and Memo No. 3063 dated 13.3.2014, to appear before the District Sub-Registrar, Patna on any working day till 25.3.2014 either for accepting or denying the execution of sale deed presented before the Respondent no. 3, the Respondent No. 4 did not appear. But the summons, bearing



Memo No. 3063 dated 13.3.2014 was returned to the Office of the Sub-Registrar, Patna with a report that Respondent No. 4 is not staying on the address given. Consequently, Respondent no.3, the Sub-Registrar, Patna, vide order dated 25.03.2014, passed in Registration Case No. 03 of 2014, as contained in Annexure-1, declined to register the sale deed, under Section 34 of the Registration Act, 1908 (hereinafter called the Act) due to non-appearance of Respondent No. 4.

The petitioner then preferred an application before Respondent no.2, the Registrar-cum-Collector, Patna against the order dated 25.03.2014 passed by Respondent no.3, the Sub-Registrar, Patna, in Registration Case No. 3 of 2014 by labelling the petition under Sections 72 or 73 of the Act. The Respondent no.2, the Collector-cum-Registrar, Patna vide order dated 27.06.2014, as contained in Annexure-3, rejected the application of the petitioner on the ground that the counsel for the petitioner did not clarify whether the application has been filed under Section 72 or under Section 73 of the Act. Hence, the present writ application.

It is submitted by learned Senior Counsel for the petitioner that the Collector-cum-Registrar ought to have considered the application of the petitioner on merit and since



private Respondent no.4 neither appeared before Respondent no.3, the Sub-Registrar, Patna nor before the Respondent No. 2, Collector-cum-Registrar, then in that circumstance, he ought to have treated the application as an appeal under Section 72 of the Act, because mere absence of Respondent No. 4 cannot be treated as denial of execution, which requires an application to be filed under Section 73 of the Act, as has been held by a Division Bench of this Court in the case of Jiwan Ram Bageria Vs. Smt. Kasturi Devi Katesaria, reported in BLJR 1981 (29) 459. Hence, it is submitted that the Respondent no.2, the Collector-cum-Registrar, Patna abdicated to exercise his jurisdiction by dismissing the application of the petitioner, since either the appeal under Section 72 of the Act, or an application under Section 73 of the Act are filed before the Registrar only. The Registrar ought to have considered the applications, instead of rejecting the same on the ground that the counsel for the petitioner failed to clarify whether the application has been filed under Section 72 or under Section 73 of the Act. The labelling or wrong labelling of an application is an irregularity and on that ground, the application ought not to have been rejected.

Learned AC to GP-26 submits that since the



counsel for the petitioner failed to explain before the Collector-cum-Registrar whether the application has been filed under Section 72 or Section 73 of the Act, hence the application was dismissed on the said ground.

A counter affidavit has been filed on behalf of Respondent No. 4 taking a plea that the dispute arose with the execution of agreement to sale of the plot appertaining to Khata No. 144, Tauzi No. 5818, Survey Plot No. 48, Thana No. 100, by Respondent No. 4 in favour of petitioner in the year 2007 for an area of 1 and ½ katha land at the rate of Rs.75000/- per katha. After receiving the consideration money, the Respondent No. 4 executed registered sale deed on the request of the petitioner in favour of Om Prakash Mandal, son of Bhubneshwar Mandal. Thereafter, in 2009 the Respondent No. 4 entered into another agreement to sell, with regard to 2 katha 6 dhoors land for total consideration amount of Rs.17,25,000/- in which the Respondent No. 4 received only Rs.30,000/- as advance and after that, no payment was received by the Respondent No. 4, as a result, the agreement got lapsed in 2009 itself and on 12.9.2013 the petitioner lodged a non-FIR Case No. 103 of 2013, which resulted into initiation of a proceeding under Section 107 of Cr.P.C. which was subsequently dropped



by the Sub-divisional Magistrate, Patna vide order dated 18.10.2014. At the instance of the petitioner, the Respondent No. 4 was taken to the police station and his thumb impression was forcibly taken on a plain paper. Initially, the petitioner filed Registration Case No.3 of 2014 under Section 36 of the Act on 25.3.2014 wherein no notice was served upon the Respondent No. 4 and hence, the same was rejected. She again filed Compulsory Registration Case No. 5 of 2014 before the Registrar-cum-Collector, Patna, when again notice was served upon the Respondent No.4 and the same was also rejected and thereafter, the application was filed before the Registrar against the order passed in Registration Case No. 3 of 2014. Hence, the present writ application is fit to be dismissed.

The Respondent No. 4 denies to have executed the document or put his signature on the alleged sale deed. Statement to that effect has been made in paragraph 3 of the supplementary counter affidavit filed by Respondent No. 4, which reads as follows:

“That I have only signed on the paper of agreement by receiving amount of Rs. 30,000/- as ‘baibeyana’ out of Rs. 17.25 Lakh and thereafter no any amount has been received by me up till now. I have no made my signature on the sale deed paper. The signature on the sale deed



paper is not mine, it is totally false and fabricated.”

Considering the rival submissions of the parties, the issues which have to be considered in the present writ application are, firstly, as to whether after the rejection of the petitioner’s Registration Case No. 3 of 2014 by Respondent No. 3, the District Sub-Registrar, Patna under Section 34 of the Act, an appeal will lie under Section 72 of the Act or the application will lie under Section 73 of the Act. Secondly, whether the Registrar ought to have rejected the application of the petitioner filed against the order of Sub-Registrar merely on the ground that the counsel for the petitioner failed to explain as to whether the petitioner’s appeal is maintainable under Section 72 of the Act or application under Section 73 of the Act or on the ground of wrong labelling of the petition and thirdly, whether the non- appearance of the executant in spite of issuance of summons or notice amounts to denial of execution. Sections 71 to Section 77 of Part XII of the Act, deals with the refusal to register, and its remedies there of, which read as follows:

“71. Reasons for refusal to register to be recorded.—(1) Every Sub-Registrar refusing to register a document, except on the ground that the property to which it relates is not situate within his sub-district, shall make an order of refusal and



record his reasons for such order in his Book No. 2, and endorse the words “registration refused” on the document; and, on application made by any person executing or claiming under the document, shall, without payment and unnecessary delay, give him a copy of the reasons so recorded.

(2) No registering officer shall accept for registration a document so endorsed unless and until, under the provisions hereinafter contained, the document is directed to be registered.

72. Appeal to Registrar from orders of Sub-Registrar refusing registration on ground other than denial of execution.—(1) Except where the refusal is made on the ground of denial of execution, an appeal shall lie against an order of a Sub-Registrar refusing to admit a document to registration (whether the registration of such document is compulsory or optional) to the Registrar to whom such Sub-Registrar is subordinate, if presented to such Registrar within thirty days from the date of the order; and the Registrar may reverse or alter such order.

(2) If the order of the Registrar directs the document to be registered and the document is duly presented for registration within thirty days after the making of such order, the Sub-Registrar shall obey the same, and thereupon shall, so far as may be practicable, follow the procedure



prescribed in sections 58, 59 and 60; and such registration shall take effect as if the document had been registered when it was first duly presented for registration.

73. Application to Registrar where Sub-Registrar refuses to register on ground of denial of execution.—(1) When a Sub-Registrar has refused to register a document on the ground that any person by whom it purports to be executed, or his representative or assign, denies its execution, any person claiming under such document, or his representative, assign or agent authorized as aforesaid, may, within thirty days after the making of the order of refusal, apply to the Registrar to whom such Sub-Registrar is subordinate in order to establish his right to have the document registered.

(2) Such application shall be in writing and shall be accompanied by a copy of the reasons recorded under section 71, and the statements in the application shall be verified by the applicant in manner required by law for the verification of plaints.

74. Procedure of Registrar on such application.—In such case, and also where such denial as aforesaid is made before a Registrar in respect of a document presented for registration to him, the Registrar shall, as soon as conveniently may be, enquire—



(a) whether the document has been executed;

(b) whether the requirements of the law for the time being in force have been complied with on the part of the applicant or person presenting the document for registration, as the case may be, so as to entitle the document to registration.

75. Order by Registrar to register and procedure thereon.—(1) If the Registrar finds that the document has been executed and that the said requirements have been complied with, he shall order the document to be registered.

(2) If the document is duly presented for registration within thirty days after the making of such order, the registering officer shall obey the same and thereupon shall, so far as may be practicable, follow the procedure prescribed in sections 58, 59 and 60.

(3) Such registration shall take effect as if the document had been registered when it was first duly presented for registration.

(4) The Registrar may, for the purpose of any enquiry under section 74, summon and enforce the attendance of witnesses, and compel them to give evidence, as if he were a Civil Court, and he may also direct by whom the whole or any part of the costs of any such enquiry shall be paid, and such costs shall be recoverable



as if they had been awarded in a suit under the Code of Civil Procedure, 1908.

76. Order of refusal by Registrar.

—(1) Every Registrar refusing—

(a) to register a document except on the ground that the property to which it relates is not situate within his district or that the document ought to be registered in the office of a Sub-Registrar, or

(b) to direct the registration of a document under section 72 or section 75, shall make an order of refusal and record the reasons for such order in his Book No. 2, and, on application made by any person executing or claiming under the document, shall, without unnecessary delay, give him a copy of the reasons so recorded.

(2) No appeal lies from any order by a Registrar under this section or section 72.

77. Suit in case of order of refusal by Registrar.—(1) Where the Registrar refuses to order the document to be registered, under section 72 or section 76, any person claiming under such document, or his representative, assign or agent, may, within thirty days after the making of the order of refusal, institute in the Civil Court, within the local limits of whose original jurisdiction is situate the office in 25 which the document is sought to be registered, a suit for a decree



directing the document to be registered in such office if it be duly presented for registration within thirty days after the passing of such decree.

(2) The provisions contained in sub-sections (2) and (3) of section 75 shall, mutatis mutandis, apply to all documents presented for registration in accordance with any such decree, and, notwithstanding anything contained in this Act, the documents shall be receivable in evidence in such suit.”

Section 71 mandates that every sub-Registrar refusing to register a document, except on the ground that the property to which it relates is not situated within the territorial jurisdiction of the said sub-district, shall make an order of refusal and record his reasons for such order in Book No.2, and endorse the words “registration refused” on the document, whereas, Section 72 provides a provision for appeal to the Registrar against the orders of sub-Registrar refusing registration on the ground other than denial of execution. Section 73 provides for filing an application to the Registrar, where Sub-Registrar refuses to register on the ground of denial of execution. Hence, the necessary corollary which follows, is that the Sub-Registrar has to give reason whether he is refusing to register the document on the ground of denial of execution or



otherwise, because his order will ascertain the further remedy available to the aggrieved person, i.e., whether to file an appeal under Section 72 of the Act, or whether to file an application under Section 73 of the Act.

In the present case, merely due to non-appearance of Respondent No. 4 despite issuance of summons and expiry of stipulated period of eight months, the Sub-Registrar refused to register the sale deed, as gets reflected from the order, as contained in Annexure-1. The Sub-Registrar ought to have recorded reasons as mandated under Section 71 of the Act for coming to a conclusion as to why he is refusing to register the document.

In both the eventualities, either an appeal under Section 72 or an application under Section 73 of the Act will lie only before the Collector-cum-Registrar. The only difference is that in an appeal under Section 72 of the Act, there is no enquiry stipulated, whereas if an application under Section 73 of the Act is filed on denial of execution of document, enquiry is stipulated under Section 74 of the Act. However, where the Registrar refuses to order the document to be registered, a Suit would lie under Section 77 of the Act. In this regard, the provisions contained in Section 36 of the Act is relevant to be



referred to, which comes under Part VII of the Act, which lays down the procedure where appearance of executant or witness is desired. Section 36 reads as follows:

“36. Procedure where appearance of executant or witness is desired.—If any person presenting any document for registration or claiming under any document, which is capable of being so presented, desires the appearance of any person whose presence or testimony is necessary for the registration of such document, the registering officer may, in his discretion, call upon such Officer or Court as the 2[State] Government directs in this behalf to issue a summons requiring him to appear at the registration-office either in person or by duly authorized agent, as in the summons may be mentioned, and at a time named therein.”

Section 34 of the Act mandates that no document shall be registered under this Act unless the persons executing such document or their representatives, assigns or agents authorized as aforesaid, appear before the registering officer within the time allowed for presentation under Sections 23, 24, 25 and 26 of the Act. In this connection, a useful reference can be made to the case of Jiwan Ram Bageria (supra), where the Division Bench of this Court while hearing a



second appeal arising out of non-registration of document leading to filing of suit after dismissal of appeal preferred under Section 72, held that unless a person appears and makes specific positive assertion that he has not executed the document, his mere non-appearance will not amount to denial of execution. Paragraph 3 of the judgment reads as follows:

“3. The provisions of Section 72 (1) of the Indian Registration Act is in following terms:-

“Except where the refusal is made on the ground of denial of execution, an appeal shall lie against an order of a Sub-Registrar refusing to admit a document to registration (whether the registration of such document is compulsory or optional) to the Registrar to whom such Sub-Registrar is subordinate, if presented to such Registrar within thirty days from the date of the order; and the Registrar may reverse or alter such order.

The language in the Section makes it clear that the only exception where an appeal under Section 72 does not lie is where order of the refusal of registration is made on the ground of denial of the execution on the document in question. In the present case the defendant did not appear before the Sub-Registrar at any stage nor did he deny the execution of the document by him. The Deputy Commissioner, Dhanbad as also the



Courts below have assumed that since the defendant did not appear before the Sub-Registrar to admit or deny the execution of the document, it must be held that in substance he denied the execution. This view does not appear to be correct. Unless a person who on the face of the document is an executant thereof makes a statement that he has not executed the document, it cannot be said that he has denied the execution. The expression 'the denial of execution' requires a positive assertion to that effect and cannot be inferred by the mere fact that the executant does not appear in the registry office. In that view the order of the Sub-Registrar cannot be taken as one of refusal on the ground of denial of execution and it must be held that the appeal filed by the plaintiff under Section 72 of the Indian Registration Act was maintainable. Our view is supported by the decision in Sri Ram Gopal and another v. Surendra Kumar and others, (AIR 1970 Allahabad 221). It follows that the objection raised by the defendant to the maintainability of the suit has no merit and must be rejected."

However, learned Single Judge of this Court in the case of Rajdeep Singh Vs. The State of Bihar and Others, reported in 1998 (3) PLJR 552 took a dissenting view of what was held by the Division Bench in case of Jiwan Ram Bageria



(supra) where it has been held that ordinarily where the registering officer is satisfied that despite proper service on executant he has willfully failed to appear to either admit or deny the execution, the aggrieved party should not be relegated to avail the remedy under Section 73 of the act treating it the case of denial of execution. However, the learned Single Judge of this Court declined to refer the matter to a larger Bench on the ground that in both eventualities, where the Registrar refuses to order the document to be registered in exercise of appellate jurisdiction under Section 72 or an application under Section 73 is ultimately decided under Section 76 of the Act, whereby the Registrar orders refusing to register, the ultimate remedy is to file a Suit under Section 77 of the Act and dismissed the writ application with liberty to the petitioner of the said writ application to seek his remedy in civil suit in accordance with law. Paragraphs 11 and 12 read as follows:

“11. The question as to whether the non-appearance of the executant is wilful or not is a question of fact. It is of great importance that a finding in this regard is recorded by the Registering Officer for this would determine whether the person aggrieved is required to file application under Section 73 for compulsory registration or take recourse to other remedy



including the remedy of appeal before the District Registrar under Section 72 of the Act. While Sections 73/74 contemplate enquiry as to whether the document has been 'executed', no such enquiry is contemplated under Section 72. If an appeal under Sec. 72 is casually entertained and direction is issued by the Dy. Collector for registering the document without holding enquiry as to whether the document has been duly executed or not, it may lead to unjust consequences. It would also militate against the spirit of the Act. Chances of collusive service of notice to executant cannot be ruled out on wrong assumptions the appeal may be entertained under Section 72 and direction may be issued for registering the document. It is not just a chance, according to me, that the provisions of Section 72 appear in the Act has been enacted is indicative of the legislative intent and I am inclined to think that Section 72 contemplates appeal against order of the Sub-Registrar passed under Section 71 of the Act alone. In these premises, I am inclined to hold that ordinarily where the Registering Officer is satisfied that despite proper service on the executant he has wilfully failed to appear to either admit or deny the execution, the aggrieved party should be relegated to the remedy available to him under Section 73 of the Act treating the case to be one of denial of execution.

12. Having said so I should have



referred this case to a larger Bench because some of the observations made hereinabove may be at a tangent with the statement of law in the case of Jivanram Bageria vs. Smt. Kasturi Devi Katesaria (supra). However, in view of fact that the person aggrieved is required to file suit in either of the two situations whether the registration is refused on the ground other than denial of execution, giving rise to appeal under Section 72, or on the ground of denial of execution, giving rise to application for compulsory registration, the petitioners have got adequate remedy under the Act. Even assuming that the appeal preferred by the petitioners under Section 72 of the Act was maintainable in the present case, Section 77 of the Act lays down in clear terms that where the Registrar refuses to order the document to be registered under Section 72 or Section 76, any person claiming under such document or his representative, assigns or agent may within the stipulated period institute a suit in civil court for a decree directing the document to be registered. It may be noted that the case of Jivanram Bageria vs. Smt. Kasturi Devi (supra) had come to this Court in second appeal from a suit under Section 77 of the Act.”

In view of the discussions made above, it is true that the denial of execution is not defined under the Act but



non-appearance of the executant before the registering authority in obedience to summons cannot be treated as denial of execution under Section 35 of the Act, which prescribes the procedure of admission or denial of execution. Sub-section 3(a) of Section 35 of the Act mandates that the registering officer can treat a document as denial of execution if any person by whom the document alleged to have been executed, denies the execution. In the present case, Respondent No. 4 never appeared either before the Sub-Registrar or the Registrar to deny the execution. Hence, the view taken by the Division Bench in the case of Jiwan Ram Bageria (supra) squarely applies to the facts and circumstances of the case. Accordingly, this Court has no hesitation to hold that non-appearance of the executant before the Sub-Registrar, particularly, in a case like the present one, where service of summons have not been effected, will not amount to denial of execution. In view of the fact that the Sub-Registrar did not reject the registration case on the ground of denial of execution, the appeal was very much maintainable under Section 72 of the Act. However, if the application was filed labelling under Section 72 or 73 of the Act, it was imperative on the part of the Registrar to treat it either as an appeal under Section 72 of the Act or an application



under Section 73 of the Act and only after doing so, the Registrar ought to have either decided the appeal under Section 72 of the Act or if it had been entertained as an application under Section 73 of the Act, treating it refusal of registration on the ground of denial of execution, then the procedure prescribing enquiry under Section 74 or 75 of the Act ought to have been followed. This Court is of the view that both the authorities, namely, the Sub-Registrar and the Registrar failed to exercise the jurisdiction vested in them. It is well settled legal principle that when a statute provides for a particular procedure, for doing a thing in a particular manner, then it has to be done in that particular manner and not in any other manner at all. The aforesaid legal proposition is based on the legal maxim “Expressio unius est exclusio alterius”

In this regard, a useful reference may be made to the case of Selvi J. Jayalalithaa Vs. State of Karnataka & Ors., (2014) 1 PLJR (SC) 531. Paragraph no. 29 of the judgment reads as :

“29. We find force in the submissions advanced by the learned Attorney General that this Court generally should not pass any order in exercise of its extraordinary power under Article 142 of the Constitution to do complete justice if such order violates any



statutory provisions. We do not intend to say that it would be illegal to extend the term of the Special Judge, but that it is a matter within the jurisdiction of the State in accordance with the relevant law.

There is yet an uncontroverted legal principle that when the statute provides for a particular procedure, the authority has to follow the same and cannot be permitted to act in contravention of the same. In other words, where a statute requires to do a certain thing in a certain way, the thing must be done in that way and not contrary to it at all, are impliedly and necessarily forbidden. The aforesaid settle legal proposition is based on a legal maxim “Expressio unius est exclusio alterius”, meaning thereby that if a statute provides for a thing to be done in a particular way, then it has to be done in that manner and in no other manner and following any other course in not permissible.”

It is also well settled principle of law that wrong labelling or non-labeling of the petition is mere an irregularity and not an absence of jurisdiction, as has been held by a Full Bench of Allahabad High Court in the case of Wali Mohammad Khan Vs. Ishak Ali Khan, reported in AIR 1931 Allahabad 507 (FB).

In view of this Court, the Registrar ought not to



have rejected the application of petitioner due to wrong labelling of the application. Since Respondent No. 4 neither appeared before the Sub-Registrar or before the Registrar, but has appeared before this Court and has denied the execution, on affidavit then in that circumstance, the petitioner's application can only be entertained by the Registrar under Section 73 of the Act which mandates an enquiry with regard to denial of execution, which is a question of fact whether the document has been executed or not or whether the requirement of law, for the time being in force, has been complied with on the part of the executant or the person presenting the document for registration, as the case may be, so as to entitle the document to be registered. However, the specific case of the Respondent No. 4 in the counter affidavit is that the petitioner after rejection of the Registration Case No. 3 of 2014 by the Sub-Registrar again filed Compulsory Registration Case No. 5 of 2014 before the Registrar-cum-Collector, Patna and the same was also rejected, but the petitioner has not made any pleading with regard to the same in the writ application nor has controverted this statement made in paragraph 9 of the counter affidavit filed by Respondent No. 4 to the effect that the petitioner filed Compulsory Registration Case No. 5 of 2014 before the



Registrar-cum-Collector, Patna. Though a rejoinder to the said counter affidavit has been filed wherein reply to the contentions made in paragraph 9 of the counter affidavit has been replied in paragraph 12 thereof. Paragraph 12 of the rejoinder filed by the petitioner reads as follows:

“12. That the contents of para 9 are matters of record and grounds set forth therein shall be answered during the course of the argument.”

Though the date of order passed by the District Sub-Registrar, Patna in Registration Case No. 3 of 2014 has been mentioned in paragraph 1 of the writ application as 22.5.2014, whereas Annexure 1 contains the said order which reflects the date of order as 25.3.2014.

In the circumstances, the order dated 27.06.2014 (Annexure 3), passed by the Registrar-cum-Collector, Patna in Registration Application No. 03 of 2014-15, (though wrongly mentioned in the writ application as Registration Case No. 5 of 2014-15) is set aside. The application of the petitioner preferred before the Respondent No.2, the Collector-cum-District Magistrate, Patna on 22.5.2014 against the order dated 25.3.2014 passed in



Registration Case No. 3 of 2014 is restored with liberty to the petitioner and the Respondent No. 4 to supplement their pleadings. Respondent No. 2 is expected to decide the issue as per the parameters laid down under Section 74 of the Act within a period of six weeks of the receipt/production of a copy of this order.

Accordingly, this writ application is allowed.

(Dinesh Kumar Singh, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

