

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7050 of 2015

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Maya Devi Wife of Ram Chandra Mandal Resident of Village - Bela Singar, Tola -
Lakshminiya, Police Station - Nirmali, District - Supaul.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Registration, Bihar, Patna.
2. The Inspector General Registration, Department of Registration, Excise and Prohibition, Government of Bihar.
3. The Inspector Registration Office, Department of Registration, Excise and Prohibition, Government of Bihar.
4. The Registrar-cum-District Magistrate, District - Supaul.
5. The Sub Registration, Nirmali, District - Supaul.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhay Kumar Thakur with
Mr. Sanjay Kumar, Advocates

For the State : Mr. Anshuman Singh, AC to AG

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 12-09-2017

Heard learned counsel for the petitioner and State.

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

*“ That, this petition has been filed for issuance of
directions, orders commanding the respondent
particularly respondent no 4 and 5. The Registrar-
cum- Collector, Supaul at the Sub-Registrar,
Nirmali for the registration vide deed no. 3/98 and
supply of registration certificate with endorsement*



the said as registered and for any other reliefs for the petitioner is found entitled to in the facts and circumstances of the case.”

3. The issue, as per the contention of the petitioner, is that a deed of gift was executed in her favour in the year 1998 and presented for registration. However, the same was sent for determination of market value and fixation of registration stamp and duty but the matter has not proceeded thereafter.

4. Learned counsel for the petitioner contended that after 1998, for the first time in the year 2010, an order for recovery of deficit stamp was made and thereafter the petitioner visited the office of the registering authority and only communications are being made and now plea is being taken is that the document is not available/cannot be located. Learned counsel submitted that the location of the document which has gone missing from the office of the registering authority is not on account of any fault or laches on the part of the petitioner for which she should not be made to suffer. It was submitted that even as per the latest position, the stand of the authority is that if the document is located, necessary action shall be taken.

5. Learned counsel for the State submitted that the communication of the authority itself would indicate that the



document is not available. It was submitted that once the same is not there, especially in matters relating to gift, there cannot be any question of registering any document and at best, responsibility can be fixed and action taken against those held guilty. It was further submitted that the concerned Clerk who at the relevant time was custodian of the document, was also suspended.

6. Having considered the matter, without going into and commenting on the merits of the issue, on the basis of admitted position that as per the stand taken by the petitioner herself, that the said deed of gift was presented for registration in the year 1998 and since then she did not move the Court for seeking any relief and thereafter, though the petitioner may have been moving before the authorities, would not absolve her of delay and laches on her part. The deed of gift in favour of the petitioner, if not being registered within a reasonable period of time, it cannot be accepted that the petitioner would remain mute and helpless and would not agitate her cause before the appropriate forum, in accordance with law, including the Court. She not having chosen to invoke the jurisdiction of the appropriate authority/court gives rise to *bona fide* doubt with regard to the so called deed of gift itself, moreso when the donor is said to have died much earlier.

7. Be that as it may, the Court would only observe that



the cause of action having arisen in the year 1998, and the petitioner moving the Court in the year 2015, clearly the writ petition suffers from gross delay and laches.

8. For the reasons aforesaid, the writ petition stands dismissed.

9. However, the present dismissal shall not prejudice the cause of the petitioner or prevent her from pursuing her remedy before the appropriate authority/forum, in accordance with law.

(Ahsanuddin Amanullah, J)

Anjani/-

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