

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18278 of 2019

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Raj Kumar Bhagat Son of late Besari Lal Bhagat, Resident of Village-
Sadikpur, Police Station and P.O. Saraiya, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through D.M. Muzaffarpur, P.O. and Police Station-
Muzaffarpur Town, District- Muzaffarpur.
2. The Registrar Registry Office, Muzaffarpur, P.O. and Police Station-
Muzaffarpur Town, District- Muzaffarpur
3. Sri Pravav Shankar, Son of late Badri Narain Singh, Resident of Village-
Manikpur, Police Station and P.O. Saraiya, District- Muzaffarpur.
4. Sri Hari Kishore Prasad Singh, Son of late Damodar Prasad Singh, Resident
of Village- Manikpur, Police Station and P.O. Saraiya, District- Muzaffarpur.
5. Sri Harideo Son of late Damodar Pd. Singh, Resident of Village- Manikpur,
Police Station and P.O. Saraiya, District- Muzaffarpur.
6. Sri Vijay Shankar Singh, Son of late Hari Shankar Singh, Resident of
Village- Manikpur, Police Station and P.O. Saraiya, District- Muzaffarpur.
7. The State of Bihar through I.G. Registration, P.O. G.P.O. P.S. Sachiwalya ,
District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Amit Anand

For the Respondent/s : Mr.Vikash Kumar (SC-11)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 13-09-2019 The present writ petition has been filed for quashing

the sale deeds at Annexure-1 series to the writ petition and for

prohibiting the Registrar, Registry Office, Muzaffarpur from

registering the sale deeds.

A bare perusal of the sale deeds at Annexure-1 series

would show that the sale deeds in question have already stood

registered. In any view of the matter, it is upon the wisdom of

the Registrar/District Sub-Registrar to either register or not



register a sale deed in accordance with the provisions contained in the Registration Act, 1908 amended by Registration and other related laws (Amendment) Act, 2001 as also the Bihar Registration Rules, 2008, however, once a sale deed has stood registered, the same results in transfer of ownership in the property in question having become complete and effective. There is no provision either in the Transfer of Property Act or in the Registration Act, which deals with the cancellation of deed of sale. Registration Act confers no power with the Registrar to cancel a document which has validly been registered as per the Act and that too at the behest of a stranger to the sale deed.

At this juncture, it would be relevant to reproduce herein below the relevant provisions of the Specific Relief Act, 1963:-

“5. Recovery of specific immovable property

A person entitled to the possession of specific immovable property may recover it in the manner provided by the Code of Civil Procedure, 1908.

6. Suit by persons dispossessed of immovable property

(1) If any person is dispossessed without his consent of immovable property otherwise than in due course of law, he or any person claiming through him may, by suit, recover possession thereof, notwithstanding any other title that may be set up in such suit.

(2) No suit under this section shall be brought-



(a) after the expiry of six months from the date of dispossession; or

(b) against the government.

(3) No appeal shall lie from any order or decree passed in any suit instituted under this section, nor shall any review of any such order or decree be allowed.

(4) Nothing in this section shall bar any person from suing to establish his title to such property and to recover possession thereof.

7. Recovery of specific movable property

A person entitled to the possession of specific movable property may recover it in the manner provided by the Code of Civil Procedure, 1908.

Explanation 1 : A trustee may sue under this section for the possession of movable property to the beneficial interest in which the person for whom he is trustee is entitled.

Explanation 2 : A special or temporary right to the present possession of movable property is sufficient to support a suit under this section

31. When cancellation may be ordered

(1) Any person against whom a written instrument is void or voidable, and who has reasonable apprehension that such instrument, if left outstanding may cause him serious injury, may sue to have it adjudged void or voidable; and the court may, in its discretion, so adjudge it and order it to be delivered up and cancelled.

(2) If the instrument has been registered under the Indian Registration Act, 1908, the court shall also send a copy of its decree to the officer in whose office the instrument has been so registered; and such officer shall note on the copy of the instrument contained in his books the fact of its cancellation."

At this juncture, this Court had asked the learned



counsel appearing for the petitioner as to whether he was serious about prosecuting the present writ petition, in its present form and would it be not appropriate for the petitioner to move the competent court having original civil jurisdiction by filing appropriate suit for setting aside the decree in question, to which the learned counsel for the petitioner submitted that the present writ petition was very much maintainable and if the Court thinks otherwise, then it may pass appropriate orders.

Having regard to the facts and circumstances of the case and considering the fact that the present writ petition is not maintainable in view of the fact that the remedy of the petitioner seeking annulment/setting aside of the sale deed in question lies before the competent court having original civil jurisdiction, especially in view of the provisions of law referred to herein above in the preceding paragraphs, the writ petition is dismissed with a cost of Rs. 5,000/-.

(Mohit Kumar Shah, J)

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