

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6009 of 2019

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Jagdish Singh S/o Sri Ramadhar Singh R/o North Dahiyawan Tola, Teacher
Colony, Chapra 841301, PO- Chapra, PS- Chapra Town, District- Chapra,
Town- Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Bihar,
Patna.
2. The Principal Secretary, Department of Prohibition Excise and Registration
(Registration) Government of Bihar, Bihar, Patna.
3. The Inspector General of Registration Department of Prohibition Excise and
Registration (Registration) Government of Bihar, Bihar, Patna.
4. The Registrar cum District Magistrate, Government of Bihar, Patna 800001.
5. The District Sub-Registrar, Government of Bihar, Chajjubagh, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ravi Shankar Ganguli, Adv
For the Respondent/s : Mr.Pushkar Narain Shahi (AAG6)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 01-08-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

(i) **To hold and declare that** since the notification which has affected the ~~petitioner~~⁷⁷⁴⁴⁸ was issued in exercise of power conferred by clause (a) and (aa) of sub-section (1) of the section 69 of the Registration Act, 1908 (as amended by the registration and other related law (amendment) Act, 2001 it must confer the power to bring such notification but it does not narrate any such provision conferring power to notify such prohibitory order so the notification at the first instance is ultra vires and void.

(ii) **To hold and declare that** as the registration of the sale deeds of all such flats are stopped by the respondents which are first time sold to the purchaser either by the builder or by the landlord following a notification dated 29.08.18 saying that the vendor has to take registration compulsorily in **Real Estate (regulation and Development) Act, 2016** henceforth to be referred to as **RERA, 2016** and its rule, 2017; it is illegal and arbitrary bringing the general public in difficulty to take possession of their flats. It is fit to be

quashed. More so since it is inhuman to make someone shelter less by way of such arbitrary notification it further makes it fit to be quashed with immediate effect.

(iii) **To hold and declare that** no notification could be made to be effective from retrospective effect hence stopping registration by way of such notification has no role to play and to stop the registration of the sale deed of all the flats which are constructed and completed even before 01.05.17. This is nothing but an arbitrary order/notification.

(iv) That as the respondents are having the intentions to apply RERA on every builder / landlord so the concerned respondents should hear the suggestions made by the prescribed authority of the RERA and immediately be directed to withdraw the office order cum notice stuck over the notice board/campus wall of the District Sub-Registrar, Patna.

(v) **To hold and declare that** as the apartments before 1.5.2017 are constructed under The Bihar Apartment ownership Act, 2006; no rules over and above the same; contravening the provisions laid

down under the said Act of Apartment ownership could ever stop registration of the sale deed of the flats/apartments.

(vi) **To hold and declare that** if someone goes through the definition of RERA PROJECTS and application of taking registration u/s 3(2) of the RERA and its rules 2017, it would envisage a proposed project in future obviously any project which is already completed can't be entertained for seeking registration in this Act.

After the matter was heard for some time, finding the Bench not to be in favour of the submission made by the learned counsel for the petitioner, learned counsel for the petitioner, under instructions, states that the petition, in its present form, may be permitted to be withdrawn reserving liberty to file afresh with better particulars on the same and subsequent cause of action, if so required and desired.

Prayer allowed.

Petition is disposed of as withdrawn with the liberty aforesaid.

As and when such petition is filed, registry shall process it immediately and have it listed before the appropriate

Court.

Also liberty reserved to the petitioner to take recourse to such other remedies as are otherwise available in accordance with law.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA