

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6933 of 2021

Md. Sakir S/o Late Abdul Razzaque @ Rajaque Mian Resident of village-
Bhusunda, P.s.- Mufassil, District- Gaya at presently residing at Mohalla-
Ghughari tand, Chandchaura, P.s.- Civil Line, District- Gaya

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Land and Revenue Department, Bihar, Patna
2. The Collector, Gaya
3. The Land Reforms Deputy Collector, Gaya
4. The Circle Officer, Manpur
5. The Chief Conservator of Forest, Technology Bhawan, 4th Floor of Vishveshwariya Building, Punaichak, Patna
6. The Divisional Forest Officer, Forest Division, Mohalla New Karimganj, P.s.- civil lines town, District- Gaya
7. Additional Collector, District Registration Officer, Gaya
8. District Sub Registrar, Gaya

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Dharmendra Kumar Sinha, Advocate
For the Respondent/s : Mr. Lalit Kishore (AG)

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 30-01-2023 Heard the parties.

2. In the instant writ application, the petitioner has
prayed for the following reliefs:

i) For issuance of appropriate writ in the nature of certiorari for quashing of letter No. 5050 dated 26.12.2020 issued by Divisional Forest Officer, Forest Division, Gaya to Additional Collector, District Registration Office, Gaya where by and where under request has been made to stop sale/purchase/register any piece of land having its Khata No.- 76, Plot No.-14 and 31, Thana No.- 320 situated in Village- Bhadeja, Anchal- Manpur, District- Gaya and on the basis of such letter Sub-



Registrar is not entertaining any sale/ purchase/ transfer of land which is bad illegal barred under scope of 71 of Registration Act and also violation of direction issued under injunction petition finally affirmed by Hon'ble High Court.

ii) For issuance of appropriate writ in the nature of mandamus seeking direction to Respondent to allow any sale/ purchase/ registration of land having its Khata No. - 76, Plot No.- 14 and 31, Thana No.- 320 situated in Village- Bhadeja, Anchal- Manpur, District- Gaya as the land in question belongs to petitioner and his Ancestor and they have been coming in possession since 1938 and the said fact has been affirmed by different court including Hon'ble High Court and rent receipt has been issuing continuously in the name of petitioner. Therefore forest department has no business to issue any letter without any order of stay by any competent court.

3. The petitioner has been able to bring on record that he has a valid title. The title suit filed by the respondent- Chief Conservator of Forest has been dismissed. The action of the Sub-Registrar, Gaya to block the registration of the plots mentioned in earlier paragraph will amount to violation of right of property granted under Article 300(A) of the Constitution of India. In compliance of the Registration Act, the registering authority is under obligation to register a document presented before it barring certain exceptions mentioned under the Act.

4. The information given by the sub-Registrar-cum-Public Information Officer contained in 'Annexure-4' cannot come in way if the petitioner wants to present any sale deed for



getting it registered. The judgments passed in Title Suit No. 229/2005/307/2005 in which plot appertaining to Revisional Survey Khata No. 76 and Khesra No. 14 situated in Bhadeja has been held to be Bakast Malik land out of which 17 acres of land was sold to Bibi Batulan, who is mother of the petitioner. The State of Bihar has also acknowledged Bibi Batulan as tenant and her name has also been recorded in Anchal Sirista and rent receipt also issued in her favour.

5. Learned counsel further submitted that the petitioner has already filed title suit No. 29/2005 / 307/2005 appertaining to C.S. Plot No. 298, C.S. Khata No. 149 corresponding to R.S. Plot No. 14, R.S. Khata No. 76 as detailed in Para 4 of the writ petition which is reproduced hereunder:-

“That the fact matrix of this case is that the land having its C.S. Plot No. 298 under C.S. Khata No. 149 corresponding to R.S. Plot No. 14 under R.S. Khata No.76 situated in Village - Bhadeja was Bakast Malik land and Ex-landlord Bisheshwar Lal Nakfofa sold 17 Acres of land to Bibi Batulan, the mother of petitioner and in token of settlement, the landlord issued rent receipt and filed cess revaluation return in favour of Bibi Batulan and Zamindari return at the time of vesting of Zamindari. The State of Bihar also acknowledged Bibi Batulan as tenant and her name was recorded in Anchal Sirista and rent receipt were also issued in her favour.”

6. Learned counsel further submitted that State of Bihar and Forest Department are defendant in the said suit in which State Government has also filed their written statement.



The Trial Court after considering the balance of convenience has passed order of injunction under Order 39 Rule 1 and 2 of C.P.C. by which the respondents have been restrained from disturbing the petitioner in any manner. He further submitted that the Chief Conservator of Forest, Bihar had earlier filed a writ petition being C.W.J.C. No. 9610 of 2010, which was disposed of vide order dated 16.04.2014. The State Government had filed their counter affidavit. The writ petition was dismissed with following observations:-

“As a result, this writ application is dismissed.

The court below which is in seisin of Title Suit concerned is directed to take steps for expeditious disposal of the same preferably within a period of nine months from the date of receipt/production of a copy of this order. However, it would be required to proceed and decide the issues in the suit on its own merit and in accordance with law without being prejudiced by the observations or findings recorded in the present order as the same are only for the purpose of grant of interim relief to the plaintiff during the pendency of the suit.”

7. Learned counsel further submitted that till date the respondent-State and in particular the Chief Conservator of Forest, Patna have not challenged the order dated 16.04.2014.

8. The respondent has made an application dated 26.12.2020 to block the above-mentioned lands belonging to the petitioner from registering any sale deed with respect to aforesaid land for the reason that Divisional Forest Officer,



Gaya Division, Gaya is contemplating to file a separate suit.

9. In view of the specific submission made by the petitioner, the Sub Registrar, Gaya cannot restrain himself on the basis of letter dated 26.12.2020 from accepting any sale deed presented on behalf of the petitioner.

10. The Apex Court in case of **State of Rajasthan and Ors. v. Basant Nahata** reported in **(2005) 12 SCC 77** has held in Paragraph Nos. 59 and 61 which are reproduced hereinafter:

“59. The question can be considered from another angle. A person may not have any near relative or is otherwise unable to attend the office of the Sub-Registrar or Registrar within whose jurisdictions the property is situated. He may even be out of the country. In absence of any substantive provisions contained in a parliamentary or legislative act, he cannot be refrained from dealing with his property in any manner he likes. Such statutory interdict would be opposed to one’s right of property as envisaged under Article 300-A of the Constitution.

61. Hence, it becomes amply clear that it is not possible to define public policy with precision at any point of time. It is not for the executive to fill these grey areas as the said power rests with judiciary. Whenever interpretation of the concept “public policy” is required to be considered it is for the judiciary to do so and in doing so even the power of the judiciary is very limited.”

11. The petitioner is directed to file his detailed representation before the District Magistrate-cum-Registrar, Gaya along with all the supporting documents with respect to the lands mentioned in the letter dated 26.12.2020 addressed to



the Sub-Registrar by the Divisional Forest Officer, Gaya. The District Magistrate must pass necessary order in accordance with law within a period of three weeks from the date of filing of representation by the petitioner. In case he finds the Sub-Registrar has blocked the land mentioned in 'Annexure-4' without jurisdiction, in that case, he may pass necessary order within the aforesaid period and communicate to the Divisional Forest Officer, Gaya. He should give appropriate opportunity to the Divisional Forest Officer, Gaya.

12. Petitioner is at liberty to approach the trial court by making application in case he requires to sell any land. The information given by the Sub-Registrar cum Public Information Officer contained in Annexure-4 cannot come in the way if the petitioner wants to present any sale deed for getting it registered.

13. With the aforesaid directions and observations, the writ petition stands disposed of.

(Purnendu Singh, J)

Nilmani
Mantreshwar/-

U			
---	--	--	--

