

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7699 of 2023

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Smt. Neelam Dwivedi Wife of Sri Pashupati Nath @ Bhupendra Singh
Resident of Village and P.O. and Police Station-Kotwa, District-East
Champaran, Presently resident of 26, Hickory Dr, Oak Brook IL 60523 USA.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Prohibition, Excise and Registration, Government of Bihar, Patna.
2. The Inspector General of Registration, Department of Registration, Government of Bihar, Patna.
3. The Deputy Inspector General of Registration, Of Registration, Government of Bihar, Patna.
4. The Collector, District-East Champran.
5. The District Sub Reistrar, Motihari, District-East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pushkar Narain Shahi, Sr. Advocate Mr. Bidhanesh Misra, Advocate Mrs. Tanuja Kumari Mishra, Advocate Ms. Deeksha Singh, Advocate
For the State	:	Mr. Vikash Kumar (Sc 11) Mr. Rewti Kant Sharma, AC to SC-11

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 08-08-2023

1. The present writ petition has been filed for issuance of appropriate directions upon the respondent-authorities to remove restriction on the registration of legal instrument pertaining to land in question admeasuring 7 Katha, 2 Dhur situated over Plot No.33, Khata No.30, Mauja-Balua Tall, Thana No.105, Mohalla-Chandmari under the Motihari Nagar Parishad.

2. The learned senior counsel for the petitioner has



submitted that the only reason for the Sub Registrar, Motihari, East Champaran to have refused to register the sale deed, being sought to be executed by the petitioner in favour of the vendee, is operation of injunction order passed by the learned Court of Sub-Judge-II, Motihari, East Champaran dated 16.09.2020, in connection with Partition Suit No.128 of 2020, however, the learned senior counsel for the petitioner has pointed out by referring to the description of the suit property, as mentioned in the plaint in question, relevant portion whereof can be found at page no.53, that only two katha of the larger plot, admeasuring 45 Bigha, 12 Katha, 9 Dhur, is the subject-matter of the aforesaid Partition Suit No.128 of 2020, hence as far as the remaining area is concerned, with regard to which the petitioner is seeking to execute a registered sale deed, the same being not the subject matter of the aforesaid partition suit, directions be issued to the Sub-Registrar, Motihari to register the said sale deeds. The learned senior counsel for the petitioner has also referred to a judgment rendered by this Court in the case of **Rakesh Gupta vs. State of Bihar & Ors.**, reported in **2022 (3) PLJR 876**, to submit that it is a well-settled law that once a document /instrument, otherwise complying with the statutory requirements & formalities is presented for registration, the



registering authority is duty bound to register the same.

3. At this juncture, it would be apt to reproduce paragraph no.9 of the aforesaid judgment rendered in the case of **Rakesh Gupta (Supra)** hereinbelow:-

“9. Having considered the entire facts and circumstances, as stated hereinabove, at length as also in view of the law laid down by the Hon'ble Apex Court, the Privy for the Council as also this Court in the case of Basant Nahata (supra), Haradas Acharjee Choudhury (supra), Tarakdas Acharjee (supra), Bihar Deed Writers Association & Ors. (supra) and in the case of Satyendra Kumar Singh (supra), this Court is of the firm opinion that once a conveyance/sale deed is presented for registration, the registering authority is duty bound to register the same, if the said document is otherwise complying with the statutory requirement and formalities. Consequently, the present writ petition is allowed and the Respondent No. 5, i.e. the Sub-Registrar/District Sub-Registrar, Saran (Chapra) is directed to register the conveyance/sale deed in question within a period of 48 hours of its presentation and payment of the requisite stamp duty, if not already paid, as also compliance of the statutory requirements.”

4. *Per contra*, the learned counsel for the respondent-



State has submitted that on account of the aforesaid injunction order dated 16.09.2020, passed by the learned Court of Sub-Judge-II, Motihari, East Champaran, the land in question has been put under the prohibited list of registration, hence the Sub Registrar, Motihari is not registering the same. Nonetheless, he submits that the District Magistrate, Motihari, East Champaran, if called upon, shall definitely decide as to whether the land in question, regarding which execution of registered sale deed is being sought, is or is not a part of the suit property qua the aforesaid Partition Suit No.128 of 2020.

5. Having regard to the facts and circumstances of the case, I deem it fit and proper to direct the District Magistrate, Motihari, East Champaran to verify the records of the present case as also that of the Partition Suit No.128 of 2020, upon appropriate application being made in this regard by the petitioner and take a decision as to whether the land in question, regarding which registered sale deed is being sought to be registered, is or is not the subject matter of the aforesaid Partition Suit No.128 of 2020, and in case it is found that the land in question is not a part of the suit property described in the plaint of the aforesaid Partition Suit No.128 of 2020, he would immediately pass necessary orders for removal of the said



portion of land from the prohibited category and ensure registration of the sale deed in question.

6. It is needless to state that in case appropriate petition is filed by the petitioner, within a period of eight weeks from today, necessary decision shall be taken thereon by the District Magistrate, Motihari, East Champaran, within a period of six weeks, thereafter and accordingly, the Sub-Registrar, Motihari, East Champaran shall proceed in the matter.

7. The writ petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.09.2023
Transmission Date	NA

