

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.729 of 2024

1. Sheo Charan Dalmia @ Sheocharan Bishwanath Dalmia Son of Late Vishwanath Dalmia @ Bishwanath Laxminaryan Dalmia, Resident of Mohalla Dalmia House Dhami Tola, K P Road, P.S. Kotwali, Gaya District Gaya that Petitioner no. 1is Presently residing at-402, Smundra Gaurav, Worli Sea Face, Worli Colony, P.S.-Worli, Mumbai, Maharashtra
2. Sheo Prakash Dalmia Son of Late Vishwanath Dalmia @ Bishwanath Laxminarayan Dalmia Resident of Mohalla Dalmia House Dhami Tola, K P Road, P.S. Kotwali, Gaya District Gaya that Petitioner no. 1is Presently residing at-402, Smundra Gaurav, Worli Sea Face, Worli Colony, P.S.-Worli, Mumbai, Maharashtra Whereas Presently Residing at -1002, Seemadhar A, Near Nehru Nagar, P.S.-Piplaud Police Chowki Under Umra Police Station, Surat, Gujarat
3. Sheo Kailash Dalmia Son of Late Vishwanath Dalmia @ Bishwanath Laxminarayan Dalmia, Resident of Mohalla Dalmia House Dhami Tola, K P Road, P.S. Kotwali, Gaya District Gaya that Petitioner no. 1is Presently residing at-402, Smundra Gaurav, Worli Sea Face, Worli Colony, P.S.-Worli, Mumbai, Maharashtra
4. Sheo Arun Dalmia Son of Late Vishwanath Dalmia @ Bishwanath Laxminarayan Dalmia Resident of Mohalla Dalmia House Dhami Tola, K P Road, P.S. Kotwali, Gaya District Gaya that Petitioner no. 1is Presently residing at-402, Smundra Gaurav, Worli Sea Face, Worli Colony, P.S.-Worli, Mumbai, Maharashtra

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Prohibition Excise and Registration Cum the Inspector General of Registration, Government of Bihar
2. The Commissioner, Magadh Division, Gaya
3. The District Magistrate, Gaya
4. The Additional District Magistrate, Gaya
5. The Gaya Munidipal Corporation through the Municipal Commissioner Gaya
6. The A.I.G., Magadh Division, Registration and Excise Prohibition Department, Gaya.
7. The District Sub Registrar, District Registry Office, Gaya

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. P.N. Shahi, Sr. Advocate Mr.Avinash Kumar Singh, Advocate
For the Respondent/s	:	Mr. Abbas Haider, SC-6 Mr. Wasi Mohammad, AC to SC-6
For the Corporation	:	Mr. Rabindra Kumar Priyadarshi, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY



ORAL ORDER

2 25-04-2024 Heard Mr. P.N. Shahi, learned Senior counsel for the petitioner duly assisted by Mr. Avinash Kumar Singh, Mr. Rabindra Kumar Priyadarshi, learned counsel appearing on behalf of the Gaya Municipal Corporation as also Mr. Abbas Haider, learned Standing Counsel no. 6 for the State.

2. The present writ petition has been preferred for the following reliefs:

(i) for issuance of appropriate writ or writs, order or orders, direction or directions to the respondent to accept registry of the sale deed/s in respect of immovable property belonging to the petitioners which are part of the landed property which may be described as Khata no. 203 (new), Plot no. 10 (new), Mauza - Aalamgirpur, Thana no. 7 (Purani Godam), Mohalla Krishna Prakash Road, Ward no. 3 (old), Survey Ward no. 10, Present Ward no. 20, Holding no. 38 (Old), Holding no. 96 (subsequent), presently part of Holding no. 1;

(ii) further for direction to the respondents particularly respondent no. 3, 4 & 7 to abstain from creating unnecessary and unreasonable restrictions upon the petitioners in exercising their right to



property including right to alienate in respect of the aforementioned property belonging to the petitioners.

3. At the outset, learned counsel for the State as also learned counsel appearing on behalf of the Gaya Municipal Corporation made preliminary objection submitting that Usha Devi Dalmia who is necessary party to the writ petition has not been made party-respondent. The objection put forward by the respective counsels is/are valid.

4. The writ petitioner himself has incorporated the details of Usha Devi Dalmia in paragraph-11 of the writ petition but has chosen not to impose her as party-respondent.

5. Though in that background, the writ petition is fit to be dismissed for non-joinder of necessary party, learned Senior counsel submits that it would suffice if the details that have been incorporated in paragraph nos. 17 to 20 of the writ petition are taken note of and the petitioners are allowed to approach the appropriate authority with fresh petition so that the matter could be taken to its logical conclusion.

6. Learned State counsel as also learned counsel appearing on behalf of the Gaya Municipal Corporation do not have any objection.



8. Paragraphs 17 to 20 of the petition are incorporated hereinbelow:

“17. That the Respondent no. 5 herein after due enquiry gave a report vide Letter no. 2679 dated 03.11.2023 stating in most unambiguous terms that the property was free from the bar under Partition suit no. 528 of 2015 and also that the registration of the property in question could be registered as there was no disability as per Court's order in respect of same.

18. That thereafter the report dated 03.11.2023 was placed before the empowered committee which presented the report to the respondent no. 3 who under palpable influence of land mafia again returned the file seeking a more unambiguous report with all and sundry details of the properties mentioned at item no. 1, 2, 3, & 5 of the concerned suit along with photographs apart from the details of the property sought to be registered.

19. That the aforesaid proceedings were recorded in Letter no. 6311 dated 24.11.2023 issued by the Additional District Magistrate, Gaya on Letterhead of District Registration Office, Gaya which was addressed to the Municipal Commissioner, Gaya.



20. That the Municipal Commissioner, Gaya in compliance of aforesaid direction got a very detailed enquiry conducted and enclosing same again wrote to the ADM, Gaya vide Letter no. 2975 dated 25.11.2023 stating therein in report reiterating the actual position that there was no bar upon registration of sale deeds in respect of the property in issue.”

9. In that background and in view of the limited prayer/submission put forward by the learned Senior counsel, the writ petition stands disposed of granting liberty to move before the appropriate authority within a period of four weeks who shall decide the matter in next six months from the date, the petitioners prefer petition before the official.

10. The concerned official must take into account that any order has to be passed only after hearing all the necessary parties to the writ petition including Usha Devi Dalmia.

11. CWJC No. 729 of 2024 is disposed of.

(Rajiv Roy, J)

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