

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1089 of 2024

1. Laxmi Devi W/o Ram Bachan Tiwari, Resident of Village Paharpur, P.S.- Magadh Medical College, District - Gaya.
2. Rana Sunil Kumar, S/o J.P. Singh, 171/A, Nh-82, Paharpur, Near Military Cant, Gaya, Gaya, Bihar - 823004.
3. Babita Singh, W/o Rakesh Kumar Singh, Resident of - Road No.2, Magadh Colony, Gaya, Gaya, Bihar - 823001.
4. Aradhna Singh, W/o Manoj Kumar, Resident of - Village - Paharpur, P.O.- Civil Aerodrum, P.S.- Magadh Medical College, District- Gaya.
5. Manish Srivastav, S/o- Magan Lal Srivastav, Resident of Mohalla A.T Gate Kaler, P.O.- Civil Aerodrum, P.S.- Magadh Medical College, District- Gaya, Bihar- 823001.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Prohibition, Excise and Registration Department, Government of Bihar, Patna.
2. The Collector and District Magistrate, Gaya.
3. Sub Registrar, District- Gaya.
4. The Circle Officer, Anchal -Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Ms. Riya Giri, Advocate Mr. Sumit Kumar Jha, Advocate Mr. Vijay Shankar Tiwari, Advocate Mr. Vijay Shanker Tiwari
For the State	:	Mr. S. Raza Ahmand, AAG-5 Mr. Alok Ranjan, Advocate

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
Date : 22-08-2024

The present writ petition has been filed seeking the following reliefs:-

“1. For issuance of a writ in the nature of mandamus commanding the respondents no 2 & 3 to remove the restrictions from transferring the land of the petitioner bearing old khata no 73, plot no 481 and 483 new khata no 76, new plot no 3 & 168, situated at village- Paharpur,



P.S.- Medical Collage, District- Gaya, which is shown on the portal of registration, excise and prohibition department, Govt. of Bihar.

II. For issuance of writ in the nature of mandamus commanding and directing the respondent Authority particularly the Respondent no 4 to continue issuing the rent receipts of the land in question.”

2. At the outset, the learned counsel for the petitioners submits that the vendor of the petitioner no.1, namely, Saiyara Khatoon had filed a Title Suit bearing Title Suit No.15 of 1985, before the learned Court of Sub-ordinate Judge, Gaya with regard to declaration of her title, title and interest in the said land, appertaining to old Khata No.73, old Plots No.481 and 483, corresponding to new Khata No.76 and New Plots Nos.3 and 168, whereupon the learned Court of Sub-Judge-II, Gaya, by a judgment dated 28.02.1987 and decree dated 13.03.1987, passed in Title Suit No.15 of 1985 ordered and declared that the plaintiff, i.e. Saiyara Khatoon has got title over the suit land. The petitioner no.1 had, vide registered sale deed dated 27.06.1989 purchased a portion of the aforesaid suit land from the said Saiyara Khatoon, apart from the mother of the petitioner no.2 having also purchased a portion of the suit land vide registered sale deed dated 16.12.1987 from the said Saiyara



Khatoon. In fact, the other petitioners had also purchased portions of the suit land, particulars whereof have been mentioned in paragraphs no.13 to 15 of the writ petition, which are reproduced hereinbelow:-

“13. That it is stated that Major Shrikant purchased a piece of land admeasuring area 10470 sqft bearing Old Khata No.73, plot no.481 from Saira Khatoon on 12.01.1989, and thereafter petitioner no. 3 namely Babita Singh purchased the same land through registered sale deed on 05.11.2004 from Major Shrikant and the petitioner's no. 3 name was entered into revenue records, and further rent receipts were issued from time to time.

14. That Gobind Singh purchased the land admeasuring 900 sq. ft. bearing Old Khata No. 73, plot no. 481, New Khata No.-76, new plot no. 03 on 22.06.1991 from Saira Khatoon and sold the same piece of land to Ram Jharokha Singh on 12.09.1991. That it is stated that Aradhna Singh, who is petitioner no. 4 in the present writ petition, purchased the aforesaid land admeasuring 900 sqft bearing Old Khata No. 73, Plot no.-481, New Khata No.-76, new plot no. 03 from Ram Jharokha Singh on 22.08.2005, and thereafter the petitioner no. 4 through registered sale deed, and her name was entered into revenue records, and further rent receipts were issued from time to time.

15. That the petitioner no. 5 namely Manish Srivastav's mother Late Bibha Srivastav, purchased from Saira Khatoon on 05.09.1988 and later Manish Srivastav



executed the agreement of sale, in favour of petitioner no.2 on 05.06.2020. But due to restriction of sale on land, petitioner no.5 was unable to execute the sale deed in favour of petitioner no. 2.”

3. In view of the aforesaid, the learned counsel for the petitioners has submitted that the restriction imposed upon transfer of the aforesaid land, as is being depicted on the web-portal of the Registration, Excise and Prohibition Department, Government of Bihar, be directed to be removed.

4. *Per contra*, the learned counsel for the respondent-State has submitted, by referring to the counter affidavit filed in the present case, that the respondents are contemplating filing of appeal against the aforesaid judgment dated 28.02.1987, passed by the learned Court of Sub-Judge-II, Gaya in Title Suit No.15 of 1985, hence this Court may not issue any direction to the respondent-authorities to remove the restriction imposed upon transfer of the aforesaid land in question.

5. I have heard the learned counsel for the parties and perused the materials on record from which it is clear that the vendor of the petitioners has perfected her title by virtue of the aforesaid judgment dated 28.02.1987 and decree dated 13.03.1987, passed by the learned Court of Sub-Judge-II, Gaya in Title Suit No.15 of 1985 and despite lapse of about 37 years,



no title appeal has been filed by the respondents, and still they are contemplating filing an appeal, hence no restriction can be imposed upon transfer of the aforesaid suit land, inasmuch as neither the respondents have any legal basis to do so nor they can sit over the judgment and decree of the learned Trial Court.

6. Having regard to the facts and circumstances of the case and for the reasons mentioned herein-above, I deem it fit and proper to direct the respondents to remove the restriction imposed regarding the transfer of the aforesaid land of the petitioners appertaining to old Khata No.73, old Plots No.481 and 483, corresponding to new Khata No.76 and new Plots No.3 and 168, situated at village- Paharpur, P.S.-Medical College, District-Gaya, to the extent of the area, as is mentioned in the aforesaid judgment and decree dated 28.02.1987 and 13.03.1987, respectively, passed by the learned Court of Sub-Judge-II, Gaya in Title Suit No.15 of 1985, within a period of two weeks from today.

7. The writ petition stands allowed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	23.08.2024
Uploading Date	NA
Transmission Date	NA

