IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(C) No. 2417 of 2024

1. Anant Prasad Singh aged about 75 years,

2. Someshwar Nath Singh aged about 69 years,

3. Rangnath Singh aged about 66 years,

All three S/o, Late Triloki Nath Singh, R/o Village-Masnodih, P.O.- Masnodih, P.S.-Domchanch, Dist-Koderma.

4. Shashikant Pandey, aged about 56 years, S/o Late Badri Narayan Pandey, R/o Village-Gumo, Ward No. 21, Jhumari Telaiya Municipal Area, P.O.- Jhumari Telaiya, P.S. Telaiya, Dist- Koderma.

.....petitioners

Versus

1. The State of Jharkhand.

2. Deputy Commissioner, Koderma, P.O., P.S. & District- Koderma.

3. District Sub- Registrar, Koderma, P.O., P.S. & District- Koderma.

4. Circle Officer, Koderma Anchal, Koderma, P.O., P.S. & District- Koderma.

..... Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioners : Mr. Ashok Kumar Sinha, Advocate
For the State : Mr. Avilas Kumar, A.C. to G.P.-II

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05/Dated: 07/08/2024

Heard learned counsel for the petitioner and learned counsel for the State.

2. Prayer in this writ petition is made for quashing the order dated 29.09.2011. Further prayer is made for direction upon the respondents to accept the sale deed of the petitioners for the land pertaining to Khata No. 220/767, Plot No. 2808/6778, Mouza-Gumo, P.S. Telaiya, Thana No. 12, measuring an area 3.08 acres of land situated at District-Koderma.

3. Learned counsel for the petitioners submits that petitioner nos. 1, 2 and 3 are the son of the owner of the land being Triloki Nath Singh who purchased

the above mentioned land vide registered sale deed dated 14.10.1969 and thereafter the father of the petitioners as well as petitioner nos. 1, 2 and 3 are in possession of the land in question. He further submits that the rent receipt was issued in favour of the petitioners vide Rent Receipt Noi. 756545 and Rent Receipt No. 78841 and the same finds place in Register-II at page 238 Volume-2 contained in annexure-2 series. He submits that the petitioner no. 4 is power of attorney holder of the land in question. He submits that in this background the Deputy Commissioner has issued order dated 29.09.2011 restricting the registration of the land in the district of Koderma which was challenged in W.P.(C) No. 4089 of 2013 and by order dated 11.08.2014 the said writ petition was allowed directing to register the sale deed forthwith and against that L.P.A. No. 467 of 2014 was preferred which was dismissed vide order dated 02.02.2015. He further submits that other case was also allowed against that the State moved before the Hon'ble Supreme Court and the Hon'ble Supreme Court has also dismissed the S.L.P. In view of that he submits that the case of the petitioners is fully covered and appropriate order may kindly be passed.

4. Learned counsel for the State submits that counter-affidavit has been filed wherein it is disclosed that land in question is 'gairmazrua khas land' and as such the said order has been passed by the Deputy Commissioner.

5. Section 74 of the Registration Act prescribes the following two conditions on which registration of the sale deed can be refused:-

> *"74. Procedure of Registrar on such application:- In such case, and also where such denial as aforesaid is made before a Registrar in respect of document presented for registration to him, the Registrar shall, as soon as conveniently may be, enquire*
> *(a) whether the document has been executed;*
> *(b) whether the requirements of the law for the time being in force have been complied with on the part of the applicant or person presenting the document for registration, as the case may be, so as to entitle the document to registration."*

6. In the case in hand aforesaid conditions are available to the registering authority therefore, restriction of registering the sale deed was not sustainable in the eye of law.

7. The said order by which restriction has been made by the Deputy Commissioner has already been quashed by this Court in W.P. (C) No. 4089 of 2013 which was affirmed in L.P.A. In identical situation other writ petition was allowed and the State moved before the Hon'ble Supreme Court and the Hon'ble Supreme Court also dismissed the S.L.P. The petitioners' father is in possession since 1969 that has not been denied in the counter affidavit filed by the respondent-State. Annexure-7 is document which is order passed in Title Suit No. 40/1990 which has been instituted by the petitioner nos. 1, 2 and 3 and the said suit was allowed and decree was passed in favour of the petitioner nos. 1, 2 and 3 and against that order Title Appeal No. 10 of 2014 was filed which was dismissed for non-prosecution in the year, 2019. As such the possession of the petitioners is there. If such long possession is there by way of order restriction of registering the sale deed cannot be allowed. Further the order in question is already quashed earlier as discussed hereinabove. As such this writ petition is allowed and disposed of directing the Sub-Registrar, Koderma to register the land in question on being presented by the petitioners forthwith.

8. This writ petition allowed and disposed of. Pending I.A, if any, stands disposed of.

(Sanjay Kumar Dwivedi, J.)

Satyarthi/