

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6503 of 2024

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Kajal Kumari Wife of Sanjeev Kumar Resident of Village- Bheria, P.S.
Chandi, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Home Department, Government of Bihar, Patna.
2. The Additional Director General, Economic Offence Unit Dept. of Home Government of Bihar.
3. The Deputy Superintendent of Police-cum- Investigating Officer, Economic Offence Unit Patna.
4. The Sub-Registrar, Danapur, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate.
For the Respondent/s : Mr. Standing Counsel (23)

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 5 17-04-2025 1. Heard learned counsel for the petitioner, learned
AC to SC-23 and the learned Senior counsel Shri V.N.P. Sinha
appearing on behalf of the Economic Offences Unit,
Government of Bihar.
2. The learned counsel appearing on behalf of the
petitioner submits that that petitioner along with 25 other
persons jointly purchased a piece of land ad-measuring 31
decimal pertaining to Thana No. 044, Khata No. 285, Survey
Plot No. 598, at Mauza Sikandarpur, old Rusatampur, Modi
Plastic Danapur, District- Patna vide registered sale deed dated
31.05.2011 for an amount of Rs.54,56,000/-. It is submitted that



after purchasing the land, petitioner and other purchasers got the land mutated in their names jointly from the office of the Circle Officer and rent receipt was issued. It is next submitted that purchasers including the petitioner thereafter entered into a development agreement dated 23.12.2011 (Annexure-3), with the developers for developing a residential building, accordingly, a multi-storied building consisting of 24 flats measuring 1451 Sq. Ft. with separate parking space of 10' x 14' was constructed. It is next submitted that since only 24 flats were constructed and there were 26 purchasers of the land, as such, a dispute arose, which led to filing of Title Suit No. 115 of 2017 but then a compromise was arrived at and two co-purchasers namely, Sweta kurnari and Snehlata Sinha chose to sell their flats and accordingly, 24 purchasers in equal share gave an amount Rs 31,06,000/- to Sweta and Snehlata, thereafter, Title Suit No. 115 of 2017 was decreed on 04.08.2017 (Annexure-4), based on a compromise and 24 flats were distributed amongst remaining 24 purchasers of the land including the petitioner.

3. The learned counsel for the petitioner further submits that the petitioner was allotted Flat No. 203 along with parking area and 24 flats owners also got their name entered in



Rera and mutated in the Municipal record and building tax was paid as would manifest from Annexure-5 to the writ application.

4. The learned counsel appearing on behalf of the petitioner further submits that co-purchaser namely Arvind Kumar, Junior Engineer, Public Health Engineer Department and his wife are also owner of Flat No. 201 and Flat No. 305 in the same building. It is next submitted that Patna E.O.U. P.S. Case No. 40/2013 dated 03.09.2013 was instituted against Arvind Kumar under Section 13(2) read with Section 13(1)(d) of the P.C. Act, 1988, in which, charge sheet was submitted on 31.08.2017 (Annexure-6) in which 31 decimal of land was also included as private property of Arvind Kumar when the same was purchased by 26 persons as recorded earlier.

5. The learned counsel for the petitioner submits that during the course of investigation, it was not the case of the prosecution that entire 31 decimal of land belongs to Arvind Kumar, rather in the investigation report, it was recorded that Arvind Kumar and his family owned equitable share in the developed property, further the police during the course of investigation also did not raise any suspicion against the purchasers being in connivance with Arvind in purchasing the property nor any of the co-purchasers including the petitioner



were made an accused in the case. It is further submitted that though Arvind Kumar is not the owner of the entire 31 decimal of land rather owns only two flats in the property, but still the I.O. of the case has issued Letter No. 4786 dated 03.09.2013 to the Sub Registrar, Danapur whereby sale and purchase of entire 31 decimal of land has been directed to be stopped, as such, the Sub Registrar has stopped sale and purchase of all the flats including the flat No- 203 of the petitioner. The learned counsel submits that inadvertently the letter no. 4786 dated 03.09.2013 has not been annexed with the writ petition, but then a specific pleading in this regard has been made at para-19 of the writ petition. It is further submitted that petitioner is suffering from cancer and is undergoing treatment at Tata Medical Hospital, Mumbai as would manifest from the prescription annexed as Annexure-7 to the writ application and as such is in dire need of money for her medical expenses, thus seeks a direction upon the authority to release flat no.203 Kunj Vihar Apartment, Sainikpuri Colony, Ghurdaur Road, Nasriganj, Digha, Patna-12 from Special Case No.61/2013, arising out of Patna Economic Offence P.S. Case No.40/2013 dated 03.09.2013.

6. The learned counsel appearing on behalf of the petitioner further submits that it has been specifically pleaded at



Para-25 of the writ application that a release application has been filed on 19.05.2022 before the learned Special Court, Economic Offence Unit but then the release application till date has not been decided and since the petitioner is suffering from cancer and is in need of money, as such, the petitioner has invoked extra ordinary jurisdiction of this Court for seeking the relief as raised in the instant writ application i.e. for commanding the respondent to release flat no.203 Kunj Vihar Apartment, Sainikpuri Colony, Ghurdaur Road, Nasriganj, Digha, Patna-12 belonging to the petitioner from the criminal proceeding arising out of Patna Economic Offence P.S. Case No.40/2013 dated 03.09.2013 giving rise to Special Case No.61/2013. The learned counsel for the petitioner next submits that no doubt an application has been filed before the learned Special Court on 19.05.2022 seeking release of the flat in question from the case but then the petitioner is not an accused in Patna Economic Offence P.S. Case No.40/2013 dated 03.09.2013, as such, the application filed by her before the learned Special Court for releasing the flat property in question was not in accordance with law rather it appears that the same was filed on wrong advise, as such, even after 3 years of filing of the said application, the same till date has not been



entertained by the learned Special Court. The learned counsel for the petitioner next submits that under extra ordinary circumstances, the extra ordinary jurisdiction of this Court has been invoked for the reason that petitioner is suffering from cancer and is in dire need of money as she is being treated at Tata Memorial Hospital, Mumbai and it does not appear probable that Patna Economic Offence P.S. Case No.40/2013 shall be decided in near future as it takes time for a criminal case to get decided but since petitioner is not an accused in the aforesaid FIR as such merely because the authorities have filed a charge sheet attaching the said 31 decimal of land in the case on the ground that the same was of Arvind Kumar, who acquired the same by way of disproportionate asset may not come in the way of the petitioner in selling her flat till the criminal case is not decided by the learned trial court. It is next submitted that it is a settled principle of law that a purchaser does not get a better title of the property than his or her vendor. It is also submitted that in the event if finally the economic offences unit is not able to establish its case before the learned trial court in that event what will happen, most probably the petitioner would not be there to see the result of the case as she may die on account of paucity of fund for getting her cancer treated but if the petitioner



is permitted to sell the flat in that event whosoever purchases the flat will have to abide by the judgment passed in the trial court.

7. The learned Senior counsel appearing on behalf of the economic offence unit submits that a counter affidavit has been filed on behalf of the respondent no.2 and 3. The learned Senior counsel submits that petitioner has not approached the learned Special Judge for release of the property. The said submission stands rebutted by the learned counsel appearing on behalf of the petitioner on the ground recorded hereinabove. It is also submitted by the learned Senior counsel that the proposal to confiscate the land over which the apartment has been constructed has been initiated by the Economic Offences Unit, Bihar, Patna and required proposal has been sent to the Home Department, Govt. of Bihar for approval, on which, the learned counsel appearing on behalf of the petitioner submits that only a proposal has been sent but the same till date has not been approved or else a supplementary counter affidavit would have been filed on behalf of the authorities bringing the said fact on record. It is next submitted by the learned Senior counsel that further during the course of investigation, it transpired that Arvind Kumar and his wife have invested money in properties



including the land in question along with 24 other persons, the residential building was constructed without informing the I.O. despite being aware of the fact that the land in question is under investigation and after investigation charge sheet has been submitted and plot in question is also subject matter of the charge sheet, on which, the learned counsel appearing on behalf of the petitioner submits that if the I.O. of the case or any of his superior authorities were of the view that the land in dispute was purchased by Arvind Kumar in connivance with the petitioner and other purchasers, in that event, the police after investigation would have implicated the purchasers also as an accused in the case but then none of the purchasers including the petitioner was ever called by the I.O. for questioning nor were made accused in the case. It is thus submitted that had the petitioner and other purchaser been given opportunity to explain their side of the case, perhaps the I.O. would not have included the entire land in dispute as case property except for two flats in the name of Arvind Kumar and his wife.

8. The learned counsel appearing on behalf of the State submits that a counter affidavit has also been filed on behalf of respondent no.4, wherein it has been pleaded that the matter of the petitioner has been placed before the Review



Committee of “Rok Suchi” headed by the Additional Collector, Patna on 12.06.2024, wherein it has been decided to seek a report from the Circle Officer, Danapur with regard to the land in dispute. The District Sub-Registrar, Patna vide Letter No.1213 dated 18.06.2024 (Annexure-8) had requested the Circle Officer, Danapur to submit a report with regard to the property in question, as per the decision taken by the committee headed by the Additional Collector, Patna. The respondent no.4 shall take decision as per report submitted by the Circle Officer.

9. The learned counsel appearing on behalf of the petitioner again rebuts the submission made by the learned Senior counsel appearing on behalf of the Economic Offences Unit and submits that in reply to averments made in para-8 and 22 of counter affidavit of respondent no.2 and 3, it is submitted that charge sheet in the case was filed on 31.08.2017 but then approval for confiscation of the property in question along with other property of Arvind Kumar has neither been recorded nor declaration of State Government under Section 5 of Special Court Act, 2005 has been made till date, further the FIR was instituted in the year 2013, thereafter, charge sheet came to be submitted in the year 2017, but till date confiscation proceeding has not been initiated. Further, it is submitted that during the



course of investigation, no material transpired or was collected which could even remotely suggest that the land in dispute was purchased by Arvind Kumar in connivance with the purchaser including the petitioner. It is also submitted that during the course of investigation, no investigation has been made on this aspect of the matter that how payment was made to the land owner and builder i.e. whether payment of the land was made by different purchasers to the land owner or by Arvind Kumar on behalf of all the purchasers. It is further submitted that the I.O. in a mechanical manner without any investigation on the issue, seized the land merely because in the sale deed name of Arvind Kumar also figures. It is further submitted that none of the purchasers including the petitioner are related to Arvind Kumar and are resident of different area and villages. It is also submitted that it does not appear probable even that unrelated persons with Arvind Kumar would have come in such a large number and would have agreed to purchase the land in dispute at his behest. It is submitted that these were the aspects which required investigation by the I.O. of the economic offences unit to connect the purchasers including the petitioner with the offence but then the same was not done and in a mechanical manner the property was seized and has been put in the



restriction list which is causing irreparable injury to the petitioner as she is in dire need of money as she is suffering from cancer and is getting treated at Tata Memorial Hospital, Mumbai.

10. The learned counsel appearing on behalf of the petitioner reiterates and submits that law is well settled that a purchaser does not get a right better than the vendor and in the event if any purchaser is interested in purchasing the flat of the petitioner and subsequently in the trial the economic offences unit is able to establish its case, in that event, the property would be seized and consequences would follow.

11. After hearing the learned counsel for the parties, the Court is in complete agreement with the submissions made by the learned counsel appearing on behalf of the petitioner and thus set aside the order contained in letter no. 4786 dated 03.09.2013, issued by the Investigating Officer of EOU P.S. Case No.40/2013 addressed to the Sub-Registrar, Danapur whereby sale and purchase of the entire 31 decimal of land has been directed to be stopped and directs the Sub Registrar, Danapur to allow the registration of Flat No.203 in the name of the petitioner at Kunj Vihar Apartment, Sainikpuri Colony, Ghurdaur Road, Nasriganj, Digha, Patna-12.



12. It is made clear that the present order has been passed only with respect to the petitioner and the order of the I.O. of the case has been set aside in so far as it affects the petitioner.

13. At this stage the learned counsel for the petitioner submits that petitioner undertakes that she will inform the intending purchaser about the pendency of the aforesaid criminal case.

14. The writ application stands disposed of in terms of the direction aforesaid.

(Satyavrat Verma, J)

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