
(2015) 05 PAT CK 0058

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 22242 of 2013

Arvind Kumar

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 28-05-2015

Acts Referred:

Citation : (2015) 05 PAT CK 0058

Hon'ble Judges : N.P. Singh, J

Bench : Single Bench

Advocate : Rajeev Kumar Verma, Senior Advocate and Karuna Nath Sahay, for the Appellant; Pramod Kumar, AC to GA VIII, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Navaniti Prasad Singh, J.—An application for amendment of the writ petition has been filed being IA No. 3737 of 2015 making additional prayers and seeking additional reliefs.

2. Having heard the learned counsel for the petitioner and learned counsel for the State, the same is allowed. Let IA No. 3737 of 2015 be treated as part of the application.

3. IA No. 3737 of 2015 has been filed by the petitioner stating that he had intended to sell part of his land which is not permitted to be registered by the District Registrar on the ground that the said land as per cadastral survey of the year, 1909 shows it to be Ghair Mazarua Aam land.

4. A counter affidavit has been served on the petitioner. The facts are not in controversy. Instead of passing interim order, parties agree that the writ petition be heard for its final disposal at this stage itself.

5. There is no dispute that in the cadastral survey, which is of the year, 1909 or near about , the land in question was shown as Ghair Mazarua Aam land. There is no dispute that the landlord, at that time, had made settlement of these lands

to private persons and ultimately having changed hands, it came to the uncle of the petitioner by virtue of a sale deed duly registered in 1958. Upon his death, there was a partition in the family and 21 decimals were allotted to the share of the petitioner's father Mewalal Sao and after his death, it devolved upon the petitioner. Petitioner has annexed Annexure 10, an order passed in public land encroachment proceedings under the Bihar Public Land Encroachment Act wherein in 1979, an encroachment proceeding was initiated in support of the said land holding that it was public land in unauthorized occupation of petitioner's father. Petitioner's father appeared and filed all papers and after examining the entire matter, the State authorities clearly held that over the several decades, the nature of land had changed and the land was duly mutated in the name of the predecessor-in-interest of the petitioner's father. It ceased to be a public land in any manner. This order of the year 1980, as appended as Annexure 10, attained finality. Now, after 35 years of this order, again the same plea is being raised and this time by the District Registrar, when for marriage of his daughter, petitioner wants to sell 1/2 a decimal of the said 21 decimals of land.

6. Mr. Rajeev Kumar Verma, learned Senior Counsel places reliance on a Division Bench judgment of this Court in the case of Bihar Deed Writers Association and Others Vs. State of Bihar and Others, AIR 1989 Patna 144 : (1988) 36 BLJR 399 : (1988) PLJR 672 : (1988) PLJR 671 . This Court has categorically held that it is not open to the Registrar to question the title or authority of the person selling the land and making him establish his title before he would register a document. All that he has to see is the seller, the buyer are genuine persons and the land has been properly described and consideration passed. I have not been shown any provision of law, as contained in the Registration Act, which authorizes the Registrar to enquire the right, title and interest of the person who is selling the land.

7. In that view of the matter and in view of Annexure 10, having attained finality, there cannot be any reason on the part of the Registrar much less legal authorities to refuse registration. The deed of sale which has been presented for registration is Annexure 12 dated 08.04.2015 to the interlocutory application aforesaid.

8. Having considered the matter as aforesaid, I, accordingly, direct the Registrar to allow registration of the aforesaid document upon its correct stamping and complying with other formalities.

9. Consequently Annexure 1 is set aside and with the aforesaid direction, the writ petition stands disposed of.