

(1988) 05 PAT CK 0036

In the Patna High Court

Case No : Civil Writ Jurn. Case No. 22 of 1988

Bihar Deed Writers Association and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 04-05-1988

Acts Referred:

Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act,
1961 — Section 35
Registration Act, 1908 — Section 52, 68

Citation : AIR 1989 Patna 144 : (1988) 36 BLJR 399 : (1988) PLJR 672 : (1988) PLJR 671

Hon'ble Judges : D.K. Sen, C.J;S.K. Jha, J

Bench : Division Bench

Advocate : Subhro Sanyal, for the Appellant; J.P. Shukla, Govt. Pleader, for the Respondent

Final Decision : Allowed

Judgement

1. The grievance of the writ petitioners is that a sate deed dt. 19th Aug., 1987, which was presented for registration, remains unregistered by the authority concerned. The transferor, it is stated, has produced documents of title relating to the land involved and necessary declarations have been made by the parties in respect of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, "1961 (Bihar Act 12 of 1962), hereinafter referred to as the "Ceiling Act". In spite of the same, the respondents have refused to register the sale deed which they were bound to do under the Indian Registration Act, 1908 (hereinafter referred to as the "Registration Act").

2. The case of the respondents, as appears from the counter-affidavit filed on their behalf, is that the directions have been given by the Registrar to the Sub-Registrars concerned to check and verify facts so that the provisions of the Ceiling Act are not violated.

3. It appears to us that this application can be disposed of at the stage of

adission inasmuch as the point in issue is limited. In our view, if a document otherwise complying with the statutory requirements and formalities is presented for registration, the registering authority is bound to register it. It is not for the registering authority to enquire and ascertain the title to its own satisfaction. Under the provisions of the T.P. Act, 1888, if the transferor does not have any title or has an imperfect title to the property, the transferee on transfer will either get no title or he will get an imperfect title. This will be to the prejudice of the transferee and is not of any concern to the registering authority.

4. Learned Advocate for the respondents relied on Section 35 of the Ceiling Act which empowers the Collector to call for information from any land-holder or any other person for giving effect to the provisions of the Act. This power has, in our view, nothing to do with registration of a document. Irrespective of registration of any document, the Collector can exercise the power conferred on him under the said section and call for information as he may require.

5. Learned Advocate for the respondents also referred to Section 68 of the Registration Act, which empowers the Registrar to superintend and control Sub-Registrars. This power in our view, is an administrative power conferred on the Registrar to exercise superintendence and control over the Sub-Registrars. The Registrar, in our view, cannot, in exercise of the power under the section, direct the Sub-Registrars not to register a document presented for registration if the document complies with the statutory requirements and formalities.

6. For the reasons aforesaid, this application is allowed. Let appropriate writs issue quashing the impugned orders by which registration of the sale deed involved has been refused and directing the respondents to register the same. We make it clear that in the event provisions of any statute including those of the Ceiling Act have been violated by the parties, it will be open to the respondents to take steps in accordance with law, and it is also made clear that this order will not stand in the way of such proceedings. There will be no order as to cost.