
(2011) 09 PAT CK 0052
In the Patna High Court
Case No : CWJC No. 11977 of 2009

Manati Devi

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 20-09-2011

Acts Referred:

Citation : (2011) 09 PAT CK 0052

Final Decision : Allowed

Judgement

Sheema Ali Khan, J.—Heard Learned Counsel for the Petitioner and the State. The Petitioner has filed this writ petition for a direction to the District Sub-Registrar, Rohtas, Sasaram to release sale deed No. 15019, dated 30.12.2008. This sale deed which was with respect to a piece of land appertaining to khata No. 160, plot Nos. 435 and 187. The said land came in possession of predecessor in interest of the vendor of the Petitioner. It was gifted by Dehri Light Railway to the predecessor in interest of the Petitioner's vendor in lieu of the retiral benefit as he was an employee of the Dehri Rohtas Light Railway. The Petitioner purchased this land on 30.12.2008 by a registered sale deed which was duly executed: Suddenly the Sub-Registrar, Rohtas decided not to return the sale deed to the Petitioner.

2. The reasons for not returning the sale deed to the Petitioner are apparent from the counter affidavit filed on behalf of the State. A stand has been taken on behalf of the State that the land in question was Kaisre-Hind, and it came to the knowledge of the State Government that the lands belonging to the State of Bihar are being sold by private persons. A decision was taken to prepare a list of such lands. The lands which are subject of the present sale deed have been included in the list. The Collector, Rohtas issued a list of such lands to the office of the Sub-Registrar, Rohtas and directed to supply only the deeds of such lands which are not included in the list and not to register the sale of lands which belong to the State of Bihar as per the list prepared by the authority. Apparently the land of the Petitioner was included in the list. However, this information was

provided to the Sub-Registrar on 30.12.2008, the date on which the sale deed of the Petitioner was registered.

3. The question in the present writ petition is whether the Sub-Registrar can withhold the sale deed after it has already been registered on the basis of the decision taken by the State Government and communicated to the Registrar?

4. The answer is in the negative. The Registrar or for that matter the District Magistrate cannot adjudicate with respect to the title of the land. It is the duty of the Registrar to register a sale deed once the parties have appeared before him and he is satisfied that payment of the consideration amount has been made over to the vendor.

5. A similar matter was decided by this Court in CWJC No. 9790/2008 and its analogous cases wherein the court has held that the Collector had no authority to issue a direction to the Registrar/Sub-Registrar to withhold documents which have already been registered. I may also refer to a decision of this Court in the case of Bihar Deed Writers Association and Others Vs. State of Bihar and Others, In this case the facts were that the sale deed was presented for registration which remained unregistered by the authority concerned. The transferor produced the documents of title of the land in question and also made necessary declaration that the lands were not subject matter of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act. Despite the declaration, the Registrar refused to register the land. The Respondents' case was that a direction has been given by the Registrar to Sub-Registrar to check and verify the facts so that the provisions of the Ceiling Act are not violated. In this situation the Division Bench of this Court held that if a document, which otherwise complies the statutory requirement and fulfils the formality 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 his own satisfaction. It may be that the vendee has purchased bag of wind and the vendor has sold an imperfect title to the vendee. This is not the concern of the Registering Authority.

6. While giving direction to the Sub-Registrar, Rohtas to handover the sale deed No. 15019, dated 30.12.2008 to the Petitioner immediately on receiving a copy of this order, this Court observes to give a fair chance to the State, the State may take any appropriate steps for getting the sale deed in question set aside, if so advised, by filing a suit before the competent authority. This writ petition is, thus, allowed.