

(1919) 05 PAT CK 0018
In the Patna High Court

Musammat Ram Dai

APPELLANT

Vs

Ram Chandrabali Debi

RESPONDENT

Date of Decision : 07-05-1919

Acts Referred:

Registration Act, 1908 — Section 28

Citation : AIR 1919 Patna 572 : 52 Ind. Cas. 446

Hon'ble Judges : Dawson Miller, C.J.;Coutts, J

Bench : Division Bench

Judgement

1. In our opinion this application should be rejected. The petitioner contended before this Court when the matter came here on appeal" that a deed of sale relied upon by the other side was not valid on the ground that it had not been properly registered. A portion of the property to which the document related was undoubtedly situate at Benares, the bulk of the property was situate elsewhere and the deed was registered at Benares. The section specifying the particular registration office in which a document must be registered is Section 28 of the Registration Act, and that section provides that the document shall be presented for registration in the office of a Sub-Registrar within whose sub-district the whole or some portion of the property to which such document relates is situate. Therefore (prima facie) if any portion of the property to which the document relates is within the district of the Sub Registrar of the office where it is registered, there is a valid registration within that section. It turned out in fact that the only property mentioned in the document and situate within the district of the registration office where the document was registered was property over which the transferor had no title, and it was contended before this Court that in such circumstances the registration must be deemed to be invalid. This contention was rejected.

2. It has been held in the Courts in this country that a mere flaw in the vendor's title in the only part of the property situate within the district of the registration office is not sufficient to invalidate the registration if it is made in good faith.

[See *Broja Gopal Mukherjee v. Abinash Chandra Biswas* 5 Ind. Cas. 127 : 14 C.W.N. 532.] There is a later decision of their Lordships of the Privy Council in *Harendra Lal Roy Chowdhuri v. Srimati Hari Dasi Debi* 23 Ind. Cas. 637 : 19 C.L.T. 484 : 27 M.L.J. 80 : 41 C. 972 : (1914) M.W.N. 462 : 16 M.L.T. 6 : 18 C.W.N. 817 : 1 L.W. 1050 : 16 Bom. L.R. 400 : 12 A.L.J. 774 : 41 I.A. 110 (P.C.) which is relied on by the petitioner. There the deed was registered in Calcutta. The only property in Calcutta to which it related did not exist at all, and it was found as a fact that the inclusion of this property was merely done with the intention to give jurisdiction to the Sub-Registrar in Calcutta, the parties knowing full well that they had no interest in the property therein mentioned. Where " there is any fraud or collusion between the parties for the purpose of giving jurisdiction to a particular Sub-Registrar to register the document by including property which does not exist this is sufficient to invalidate the registration, but it seems to us well established that registration is not invalid if the property described exists, merely because the transferor, though acting in a perfectly bona fide manner, turns out to have ceased to have an interest in that property. This Court found that there was no fraud on the part of the transferor or collusion between the parties in order to deceive the Registrar and obtain registration. The transaction must, therefore, be regarded as done in good faith. The petitioner has been unable to adduce any authority in his favour, and it seems to us quite clear that as long as the case complies with Section 28, that is -to say, as long as the document does refer to some property situate within the district where registration takes place, that is sufficient to bring it within the section, and the rules clearly lay down that, unless there is some fraud or collusion, the registration is in itself perfectly valid, whether in fact the person registering eventually proves his title to the property or not. In these circumstances and as there is no authority to support the contention of the petitioner, we do not think that there is sufficient substance in this point of law to entitle him to take the opinion of their Lordships of the Privy Council. This application is dismissed with costs.