
(2013) 01 PAT CK 0040
In the Patna High Court
Case No : CWJC No. 10415 Of 2011

Raj Kumar Prasad

APPELLANT

Vs

Bandana Kumar @ Soni and Another

RESPONDENT

Date of Decision : 30-01-2013

Acts Referred:

Citation : (2013) 2 PLJR 684

Hon'ble Judges : Sheema Ali Khan, J

Bench : Single Bench

Advocate : Sanjay Kumar Griyaghey, for the Appellant; Shambhu Sharan Singh, for the Respondent

Final Decision : Dismissed

Judgement

Sheema Ali Khan, J.—Heard learned counsel for the petitioner and learned counsel appearing on behalf of respondent no. 2 in this case. The petitioner is aggrieved by the order dated 18.3.2011 in Probate Case No. 4 of 2008/Title Suit No. 3 of 2010, by which the court has reviewed its own order and added Sanjiv Kumar Sinha @ Pappu as a party in the probate proceedings. Counsel for the petitioner submits that the court could not have reviewed its own order. In answer to aforesaid submissions, it may be stated that it is amply clear that the court had rejected the intervention petition because of the reason that it was under the impression that the intervenor had purchased the land in 2010, after filing of the probate case, whereas the sale deed was executed in 2007. The year 2010 was a typing mistake and as such the review application was entertained.

2. The second and the more important issue raised in this case is whether transferee can be added as party in a probate case? The facts are that the probate case was filed in the year 2008. The sale deed was registered in favour of the intervenor on 10.7.2007 prior to the filing of the probate case. Under these circumstances the court has allowed the intervenor to be added as party in the probate case.

3. It has been held time and again that anyone who purchases a property which is the subject matter of a suit does so at his own risk and will not have a better title than his vendor. It does not need any citation to conclude that a transferee is not a necessary party if the transfer deed was executed after the institution of the suit. There have been instances where this Court, including the Apex Court, in civil cases, on facts allowed a transferee to be added as a party, even though sale deed was registered after the institution of a suit.

4. In the present case, the fact reveals that the intervenor-respondent no: 2 had purchased the land from the objector before the probate case was instituted. Under such circumstances he can be added as a party as he has a right to protect his interest. This proposition has been upheld by a learned Single Judge of this Court in the case of Ekta Sahkari Grih Nirman Samiti Ltd., Patna vs. The Estate of late Ram Parichan Singh & Ors. vide order dated 8.12.2011 passed in CWJC No. 16881 of 2011*. This was challenged in SLP No. 15728 of 2012 which was dismissed on 17.9.2012. Apart from the aforesaid cases, there are two other judgments of the Patna High Court which support this proposition which are reported in Kalika Singh and Another Vs. Awadhesh Narain Singh and Others, , and Abdul Gafoor and Others Vs. State of Bihar and Others, . In the facts of the case, I find no illegality in the order impugned. The writ petition is dismissed.