
(2009) 08 JH CK 0075
In the Jharkhand High Court

Shakuntala Devi, Sardar Harjinder Pal Singh and Sardar
Manmeet Singh

APPELLANT

Vs

State of Jharkhand, District Registrar and District Sub-
Registrar
 Shakuntala Devi Vs State of Jharkhand, Mrs.
Harbans Kaur @ Harbans Kaur Saluja
 Sardar
Harjinder Pal Singh and Sardar Manmeet Singh Vs State of
Jharkhand, Manohar Lal Chourasia and Sant Lal Chourasia

RESPONDENT

Date of Decision : 10-08-2009

Acts Referred:

Registration Act, 1908 — Section 34, 35

Citation : AIR 2010 Jhar 56 : (2010) 7 RCR(Civil) 1032

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Amareshwar Sahay, J.—Since common question of law is involved in both the writ petitions and therefore, both the writ petitions were taken up and heard together and are being disposed of by this common order.

2. In both the writ petitions, the petitioners namely Shakuntala Devi in W.P.(C) No. 2563 of 2003 and Sardar Harjinder Pal Singh as well as Sardar Manmeet Singh in W.P.(C) No. 3262 of 2003 have prayed for issuance of writ of mandamus commanding upon the respondent No. 3 - the District Sub-Registrar, Ranchi to register the Sale Deeds executed and presented for registration by the proforma respondents i.e. Mrs. Harbans Kaur @ Harbans Kaur Saluja in W.P.(C) No. 2563 of 2003 and Manohar Lal Chourasia as well as Sant Lal Chourasia in W.P.(C) No. 3262 of 2003, in favour of the writ petitioners, which has been withheld by the respondent No. 3 - the District Sub-Registrar, Ranchi illegally and arbitrarily.

3. The facts in short in W.P.(C) No. 2563 of 2003, are stated here-in-below:

i. The writ petitioner Shakuntala Devi intended to purchase 5 Kathas of land in R.S. Plot No. 1151, Sub-Plot No. 47 under Khata No. 122, Holding No. 689/A,

Khewat No. 4, Village - Hesal, Thana No. 202, P.S. - Sukhdeo Nagar, District - Ranchi, from the present owners Mrs. Harbans Kaur (Proforma Respondent), wife of Sardar Ranbir Singh. ii. According to the petitioner, the aforesaid land originally belonged to M/s. Ranchi Zamindari Ltd. @ Ranchi Enterprises Limited. The said property was transferred by the erstwhile owner M/s. Ranchi Zamindari Ltd. @ Ranchi Enterprises Limited by a registered Deed No. 6212 dated 12th December, 1958 by way of permanent, heritable, transferable lease in favour of Sardar Ranbir Singh, son of Sardar Madan Singh vide Annexure-1 to the Writ Petition.

iii. Sardar Ranbir Singh constructed a house in the year 1958 - 59 which bears holding No. 6891 A. Sardar Ranbir Singh gifted the aforesaid land to his wife Mrs. Harbans Kaur by registered Deed of Gift No. 13385, dated 22nd August, 1974 vide Annexure-2.

iv. Mrs. Harbans Kaur, i.e. the Proforma Respondent, presented a Deed of sale before the District Sub-Registrar, Ranchi for registration of transfer of the aforesaid land in favour of the petitioner. The District Sub-Registrar, Ranchi, has kept the matter of registration of Deed of Sale pending on the ground that the land Plot No. 1151 is recorded in the name of Ranchi Enterprises in the Urban Land Ceiling records.

v. Further case of the petitioner is that the Urban Land (Ceiling and Regulation) Act, 1976 came into force on 1st April, 1976 and the lands transferred before the said date by Ranchi Enterprises are not affected by the said Act.

vi. According to the petitioner, a portion of the said Plot No. 1151, which had been transferred by Ranchi Enterprises, prior to 1976, have been transferred through the registered Deed recently. Such as Santu Lal has transferred a portion of Plot No. 1151 to Ashok Kumar Rai by Registered Sale Deed No. 7761 dated 14.09.1993. Similarly, one Sardar Hari Munjal transferred a portion of Plot No. 1151 to Smt. Lazwanti Ghai vide registered Sale Deed No. 6397 dated 13.08.1998 and both the aforesaid lands originally belonged to Ranchi Enterprises.

vii. The grievance of the petitioner is that the District Sub Registrar, Ranchi has neither registered nor passed any final order with regard to the Deed of Sale presented by Mrs. Harbans Kaur (Proforma Respondent) in favour of the petitioner and he has kept the matter pending for more than 1 1/2 years.

4. A Counter Affidavit has been filed in the instant case i.e. W.P.(C) No. 2563 of 2003 on behalf of the respondents. The main plea has been taken therein that the Sale Deed executed by Mrs. Harbans Kaur (Proforma Respondent) is not legally registrable because of the fact that the so called Vendor had not acquired any valid right, title over the property. The transferee of the Proforma Respondents himself had no transferable right over the properties and as such, the transfer made in favour of Harbans Kaur (Proforma Respondent) did not vest any valid title in her favour and therefore, the petitioner is not entitled to any

relief. It is also stated that the Urban Land Ceiling proceedings being U.L.C. No. 500/1996 is still pending in respect of the land of M/s. Ranchi Enterprises which include also the land of Plot No. 1151. The registered Sale Deed No. 6212 dated 12.12.1958 by M/s. Ranchi Enterprises in favour of Sardar Ranbir Singh did not create any transferable lease in his favour. Under the law, a Lessee has simply a right to hold the lease hold property and he can not transfer the land by way of sale or gift creating title in favour of transferee and therefore, the Sale Deed presented by the Proforma Respondent in favour of the petitioner has rightly been withheld and not been registered.

5. The facts in short in W.P.(C) No. 3262 of 2003, are stated here-in-below:

i. The writ petitioners intended to purchase 4 Kathas of land in R.S. Plot No. 1151, Sub-Plot No. 305/7 under Khata No. 122, Khewat No. 4, Village - Hesal, Thana No. 202, within P.S. - Sukhdeo Nagar, District - Ranchi with a house standing thereon bearing Holding No. 702/V2 from the Proforma Respondents namely Manohar Lal Chourasia as well as Sant Lal Chourasia. The aforesaid land also originally belonged to M/s. Ranchi Zamindari Limited @ Ranchi Enterprises Limited.

ii. The property intended to be purchased was transferred by the erstwhile owner i.e. M/s. Ranchi Zamindari Ltd. by a registered Deed No. 1043 dated 27.01.1970 by way of permanent, heritable, transferable lease in favour of Sri Ramdeva Lal, son of Sri Rakjumar Lal Agarwal.

iii. The purchaser Ramdeva Lal constructed a house thereon bearing Holding No. 702/V2 and he transferred the land purchased by him to Sardar Amarjit Singh, son of Late Sardar Makhan Singh by registered Deed of Sale No. 8473 dated 4th July, 1984.

iv. Sardar Amarjit Singh transferred his aforesaid land in favour of Manohar Lal Chourasia as well as Sant Lal Chourasia (Proforma Respondents) by registered Deed of Sale bearing No. 7574, dated 3rd September, 1987.

v. The grievance of the petitioner is that the aforesaid two Proforma Respondents presented a Deed of Sale on 24.08.2001 before the Respondent No. 3 i.e. the District Sub- Registrar, Ranchi for registration of the transfer of the aforesaid land in favour of the petitioners. But the District Sub- Registrar, Ranchi has not registered the Sale Deed and has kept the matter pending on the ground that Plot No. 1151 is recorded in the name of Ranchi Enterprises in the Urban Land Ceiling Records.

6. A Counter Affidavit has been filed in the instant case i.e. W.P.(C) No. 3262 of 2003 on behalf of the respondents. The main plea has been taken therein that the proceeding under the Land Ceiling Act being U.L.C. Case No. 596 of 1996 is still pending in respect of the land of Ranchi Enterprises which includes also the land of Plot No. 1151. The registered Sale Deed No. 1043, dated 27.01.1970, allegedly executed by M/s. Ranchi Enterprises in favour of Ramdeo Lal did not

create any transferable lease in his favour and therefore, he has no power to transfer the land in question in favour of anybody whatsoever creating title in favour of the said transferee and therefore, during the pendency of the proceedings under the Urban Land Ceiling Act, 1976, the respondent No. 3 has rightly withheld registration of the Sale Deed and did not register the same.

7. From the counter affidavits filed by the respondents, it appears that they have not denied the facts stated in the para-16 of W.P.(C) No. 2563 of 2003 that the Sale Deed with regard to transfer of a portion of Plot No. 1151 in favour of Ashok Kumar Rai has been registered vide Sale Deed No. 7761 on 14.09.1963. It has also not been denied about the registration of the Sale Deed with regard to another portion of Plot No. 1151 in favour of Lazwanti Ghai on 13.01.1998. However, it has been replied in the counter affidavit that the registration of any earlier Sale Deed does not create any right in favour of the Proforma Respondents.

8. Mr. Amar Kumar Sinha, learned Counsel appearing on behalf of the petitioners, by relying on the decision of Single Bench of this Court in the case of Ritu Singh and Ors. v. State of Jharkhand and Ors. reported in 2002(1) JCR 397 as well as another decision of the another Single Bench in the case of Nageshwar Thakur and Ors. v. State of Jharkhand and Ors. reported in 2003(2) JLJR 230 has submitted that it has already been held by a Single Bench of this Court that where there is valid execution, valid presentation and payment of adequate duty, then the registering authority has no option but to register the document presented before it for registration under the provisions of Section 35 of the Registration Act.

It appears that the learned Single Judge, in the aforesaid case has placed reliance on a decision of the Division Bench of Patna High Court in the case of "Bihar Deed Writers Association and Ors. Petitioners v. State of Bihar and Ors., Respondents" reported in AIR 1989 Patna 144 wherein it has been held that 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 be will get an imperfect title. This will be to the prejudice of the transferee and is not of any concern to the registering authority.

In the case of Nageshwar Thakur and Ors. v. State of Jharkhand and Ors. (Supra) also, a Single Bench of this Court held that there is no provision in the Indian Registration Act or the Rules thereunder empowering the Registrar or Sub-Registrar to hold an enquiry in the question of Title of Vendor before registration of the document. The registering authority has only to see whether the document is duly stamped to the valuation given in the documents.

9. Section 34 of the Registration Act, 1908 speaks about the enquiry before

registration by the Registering Officer and Section 35 of the said Act lays down the procedure on admission and denial of execution respectively.

On bare perusal of these two provisions, it appears that the same do not empower the registering authority to question the title of the Vendor. 10. The Division Bench of the Patna High Court, in the case of Bihar Deed Writers Association and Others Vs. State of Bihar and Others, has clearly held that 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 be will get an imperfect title. This will be to the prejudice of the transferee and is not of any concern to the registering authority.

11. Therefore, relying on the aforesaid two decisions, I hold that the District Sub Registrar, Ranchi has no jurisdiction to withhold/ refuse registration of the Sale Deed presented by the Proforma Respondents of both these two writ petitions in favour of the writ petitioners.

12. Accordingly, these two writ petitions are allowed and the respondent Nos. 2 and 3 i.e. District Registrar, Ranchi and District Sub- Registrar, Ranchi respectively, are hereby directed to register the Sale Deeds in question presented by the Proforma Respondents in favour of the Writ Petitioners within a period of two weeks from the date of receipt of a copy of this order.