
(2015) 05 JH CK 0076
In the Jharkhand High Court
Case No : WP(C) No. 6678 of 2014

Uma Devi

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 20-05-2015

Acts Referred:

Registration Act, 1908 — Section 72, 75, 76, 77

Citation : (2016) 1 AJR 316 : (2015) 3 JLJR 353

Hon'ble Judges : S. Chandrashekhar, J

Bench : Single Bench

Advocate : A.K. Sahni, for the Appellant; A.K. Verma, Advocates for the Respondent

Final Decision : Dismissed

Judgement

S. Chandrashekhar, J—Aggrieved by order dated 14.8.2014 whereby, it has been found that the land comprised in the sale-deed presented by the petitioner for registration comprised in Khata No. 321, Khesra No. 2368 is a Gairmazurwa land, registration of the sale-deed has been declined. The learned counsel for the petitioner refers to letter dated 13.8.2002 and submits that the sale-deed was forwarded to the Collector for valuation for the purpose of payment of stamp duty however, the Collector without issuing any notice to the petitioner has held that the subject land is a Gairmazurwa land.

2. The learned counsel for the respondent-State of Jharkhand raises a preliminary objection to the maintainability of the writ petition and submits that in view of Section 77 of the Registration Act, 1908, order dated 14.8.2014 can be challenged in the civil court. It is further submitted that registration of the sale-deed comprising Gairmazurwa land would be against the public policy. The learned counsel relies on decision in "Rajrajeshwar Prasad Singh Chandel v. The State of Jharkhand through the Chief Secretary and Ors.", [W.P.(C) No. 6184 of 2014] and batch cases.

3. A perusal of order dated 14.8.2014 indicates that when the matter was called out, the petitioner was not represented through, Vakalatnama was filed on behalf of the petitioner. After hearing the Government Advocate, the Collector has recorded a finding that the land comprised in the sale-deed is a Gairmazurwa land.

4. The learned counsel for the petitioner submits that the Collector is also holding the post of District Registrar and therefore, he has approached this Court by filing the present writ petition.

5. Section 77 of the Registration Act, 1908 reads as under:--

"77. Suit in case of order of refusal by Registrar.--(1) Where the Registrar refuses to order the document to be registered, under Section 72 or a decree Section 76, any person claiming under such document, or his representative, assign or agent, may, within thirty days after the making of the order of refusal, institute in the Civil Court, within the local limits of whose original jurisdiction is situate the office in which the document is sought to be registered, a suit for a decree directing the document to be registered in such office if it be duly presented for registration within thirty days after the passing of such decree.

(2) The provisions contained In sub-sections (2) and (3) of Section 75 shall, mutatis mutandis, apply to all documents presented for registration in accordance with any such decree, and, notwithstanding anything contained in this Act, the documents shall be receivable in evidence in such suit."

Considering the provision under Section 77 of the Registration Act, 1908, I am not inclined to entertain the writ petition and accordingly, it is dismissed. However, the petitioner would be at liberty to institute a suit in the civil court, as provided under Section 77 of the Registration Act, 1908.