

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (C) No.783 of 2018

Ajay Kumar Yadav, aged about 30 years, son of Late Khublal Singh Yadav @ Khublal Mahto, resident of village Bariardih, P.O. Murukmanai, P.S. Markachho, District Koderma

... Petitioner

Versus

1. The State of Jharkhand
2. The Deputy Commissioner, Koderma, P.O. + P.S. Koderma, District Koderma.
3. The District Sub-Registrar, Koderma, P.O. + P.S. Koderma, District Koderma. ... Respondents

For the Petitioner	: Mr. Anil Kr. Sinha, Advocate
For the Respondents	: Mr. Mithilesh Singh, GA IV Mr. Vishal Kr. Rai, AC to GA IV

PRESENT

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- Heard the parties.

2. This Writ Petition has been filed under Article 226 of the Constitution of India with a prayer for issuance of appropriate writ in the nature of *mandamus* commanding upon the respondents particularly the respondent No.3 to register the sale-deed which was refused to be registered upon its presentation for registration by the petitioner.

3. The brief facts of the case is that the petitioner and four other persons presented the sale-deed after completion of all the formalities as per the Registration Act before the respondent No.3 being the District Sub-Registrar, Koderma for transfer of land of Mauza Bariardih, P.S. Markachho, Thana

No.100, Khata No.119, Plot No.1441 admeasuring an area of 3 decimals belonging to them in favour of the purchasers namely Smt. Savitri Devi and Smt. Munni Devi. The respondent No.3- District Sub-Registrar, Koderma refused to register the sale-deed by making endorsement on 11.01.2018 over the sale-deed to the effect that the Deputy Commissioner, Koderma vide its order dated 09.11.2011 under Memo No.2855/confidential, has put restriction over the registration of the sale-deed with respect to the land of Circle-Markachho, Mauza Bariardih, Thana No.100, Khata No.119 in subject matter of transfer.

4. Learned counsel for the petitioner submits that the registration of the sale-deed cannot be refused except on the ground mentioned in Sections 71 and 74 of the Registration Act and the refusal of registration of sale-deed by the respondent No.3 being not for the reasons as mentioned in Sections 71 and 74 of the Registration Act, the same is not sustainable in law. It is next submitted that the Revenue Officer in exercise of the power under Section 90 of the Chota Nagpur Tenancy Act, 1908 has corrected the revenue records by ordering for entering the name of the father of the petitioner namely Khublal Mahto and Janki Mahto, the copy of which has been annexed as part of Annexure-1 page-23-25 of the brief and that the type of land is 'Rayati' in nature. Learned counsel for the petitioner relies upon the judgment of a co-ordinate Bench of this Court in the case of **Dinesh Singh vs. The State of Jharkhand & Others** passed in W.P (C) No.7325 of 2011 dated 19.07.2012 and submits that in a similar case, the co-ordinate Bench by observing as under in paragraph-12:-

"12. Sections 74 and 75 of the Registration Act clearly provide that the document shall be registered if it is duly executed and

requirements of the law for the time being in force have been complied with on the part of the person presenting the document for registration.”

Went on to direct the Sub Registrar to accept the sale-deed upon a representation of the same before it. In this connection, the learned counsel for the petitioner also relies upon the judgment of another co-ordinate Bench of this Court in the case of **Tarkeshwar Prasad vs. State of Jharkhand & Others** reported in **2016 (1) JLJR 554** wherein the co-ordinate Bench of this Court relying upon the judgment of **Dinesh Singh vs. The State of Jharkhand & Others (supra)** has observed that the restriction put by the registrar is against the provisions as contained in Section 74 of the Registration Act and hence, not sustainable in law and directed the Sub Registrar, Koderma to register the sale-deed.

5. Hence, it is submitted that the prayer, as prayed for in this Writ Petition, be allowed.

6. Learned counsel for the respondents vehemently opposes the prayer of the petitioner and submits that the land in question is the property of the State Government and the land is a *Gair Majarua Khas* type of land and hence, the same is subject to certain restrictions. It is lastly submitted that this Writ Petition, being without any merit, be dismissed.

7. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, this Court finds that the undisputed fact remains in the record is that the Revenue Officer under Section 90 of the Chota Nagpur Tenancy Act has held that the land in question is a *Raiyati* land and passed mutation orders in favour of the father of the petitioner and the land revenue was paid by the father of the petitioner for a considerable

period of time and the said order in Case No.2233/69 in a proceeding under Section 90 of the Chota Nagpur Tenancy Act having not been challenged by the respondent. As has been reiterated by the co-ordinate Bench of this Court in the case of **Dinesh Singh vs. The State of Jharkhand & Others (supra)** that if the sale-deed is duly executed and requirement of law for the time being in force has been complied with on the part of the person presenting the document for registration, the same cannot be refused to be registered.

8. Under such circumstances, if the sale-deed is duly executed and sufficiently stamped and there is no legal or formal defect, this Court is of the considered view that the Registering Authority cannot refuse to register the deed if the same is presented for registration as the Registering Authority is debarred from examining the nature of right, title and character in respect of the subject matter of the sale-deed presented for registration.

9. Therefore, this Court do not find any justification for refusal of the registration of the petitioner's sale-deed. Thus, this Writ Petition is disposed of giving liberty to the petitioner to represent the said sale-deed before the District Sub Registrar, Koderma and if the document is duly presented, the District Sub Registrar, Koderma shall accept the same for registration in accordance with the provisions of the Registration Act.

10. This Writ Petition stands disposed of accordingly.

(Anil Kumar Choudhary, J.)