

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(C) No. 2861 of 2012

Smt. Bimla Devi Wife of Sri Madhusudan Singh residence of Harmu Housing Colony, P.O.- Harmu, P.S.- Argora, District-Ranchi.

... .. **Petitioner**

Versus

1. Jharkhand State Housing Board, Ranchi through Manager Estate, P.O.- Harmu, P.S.- Argora, District- Ranchi, Jharkhand
2. Sailesh Kumar Gupta Son of Late Saroj Kumar residence of village- Purani Godown, P.O.- Chuna Gali, P.S.- Chuna Gali, District- Gaya, Bihar.
3. Shri Saroj Kumar, Eye Specialist, Resident of : 21, Co-operative, Colony, Bokaro Steel City, Bokaro
4. The State of Jharkhand through Officer-in-charge, Argora P.S., P.O. & P.S.- Argora, District- Ranchi.

... .. **Respondents**

CORAM :HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Petitioner	: Mr. Dilip Kumar Prasad, Advocate : Mr. Jitesh Kumar, Advocate : Mr. Umesh Pathak, Advocate
For the Housing Board	: Ms. Surabhi, Advocate
For the State	: Mr. Amitesh Kumar Geasen, AC to AAG-IA
For Resp. No. 3	: Mr. Rajesh Kumar Tiwari, Advocate : Ms. Shalini Saboo, Advocate : Mr. Vishwanath Moon, Advocate

16/12.11.2024

Heard the learned counsel for the parties.

2. This writ petition has been filed for the following reliefs:

"For issuance of appropriate Writ or Writs, direction or directions, order or orders commanding the Respondent No. 1 not to interfere the law full possession of the Petitioner in respect of M.I.G. Plot No. D/68 situated at Harmu Housing Colony, P.O. – Harmu, P.S.- Argora, District- Ranchi because Petitioner has got the aforesaid Plot as per Registered Deed No. 6690 dated 24-04-2008;

AND

Petitioner further prays for issuance of appropriate Writ or Writs, order or orders, direction or directions set aside the letter dated 27-12-2010 (Annexure-4) issued by the Manager Estate by which he has directed the petitioner to submit the Deed in the office, without doing any proper enquiry that whether said Saroj Kumar is alive or not."

3. Learned counsel for the petitioner submits that the petitioner is the allottee in connection with one MIG Plot No. D/68 situated at Harmu Housing Colony, Ranchi.

4. He submits that when the petitioner came to know that the plot was available for sale, she approached the respondent no. 1 and got the name of the intending seller and contacted respondent no. 2 for purchasing the aforesaid land. His further case is that the respondent no. 2 showed the death certificate of his father namely Saroj Kumar which was dated 13.04.2007 and he also showed letter dated 08.08.2007 issued by the Executive Engineer recommending for transfer of name with regard to the plot in question. The order with regard to transfer of name issued vide letter dated 21.05.2007 was also shown by the respondent no. 2 and the respondent no. 2 fully satisfied the petitioner that Saroj Kumar was dead and the respondent no. 2 had all the rights to deal with the property. Consequently, the petitioner became ready to purchase the property.

5. Thereafter, the respondent no. 2 applied before the Estate Officer for seeking permission to sell the plot to the petitioner. In response, permission was granted vide letter dated 15.12.2007 and thereafter, upon paying the required sale consideration the petitioner purchased the said property which was also registered in her name vide deed no. 6690 dated 24.04.2008. The authority of the respondent no. 1 is also a signatory to the deed.

6. It is further case of the petitioner that suddenly in the month of December, 2010 when the petitioner was undertaking some construction over the property, the authorities of respondent no. 1 asked the petitioner to stop construction work and she received a letter dated 27.12.2010 of the Estate Officer of respondent no. 1 by which the petitioner was directed to hand over the registered deed so that the housing board could take steps for cancellation of such a deed. It was alleged in the said letter dated 27.12.2010 that a letter was written by said Saroj Kumar that he was alive.

7. It has been stated in the writ petition that the respondent no. 1 had not initiated any proceeding for cancellation of registered deed no.

6690 dated 24.04.2008 and therefore, the present writ petition was filed for the aforesaid relief seeking a direction upon the respondent no. 1 not to interfere with the lawful possession of the petitioner with respect to the property. Learned counsel for the petitioner has referred to Clause 16 of the registered deed to submit that any dispute is required to be resolved through arbitration which is to be referred to the managing director of the Housing Board.

8. In order dated 15.07.2024, the submission of the learned counsel for the respondent no. 1 was recorded that the entire proceeding was initiated on the basis of a complaint made by Saroj Kumar who is the original allottee who alleged that the respondent no. 2 had wrongly claimed that Saroj Kumar had expired, rather the respondent no. 2 is not even the son of Saroj Kumar. The address of Saroj Kumar was also given on the same day. Consequently, vide order dated 15.07.2024 Saroj Kumar, who was said to be alive, was added as respondent no. 3 in the present case and notice was issued. Pursuant to such notice, so-called Saroj Kumar has appeared before this Court through his counsel and has placed on record certain documents to show that he is real Saroj Kumar. He has also claimed that Saroj Kumar is in physical possession of the property. The respondent no. 3 has tried to make out a case that he is the original allottee and still alive and it was wrongly projected that Saroj Kumar has expired. The respondent no. 3 has further claimed that it was wrongly mentioned that Sailesh Kumar Gupta is his son and thereby a fraud was played and the registered deed was executed in favour of the petitioner.

9. Learned counsel appearing on behalf of the Housing Board has submitted that by the impugned letter they had simply asked the petitioner to hand over the original registered deed which was in her possession so that they could take appropriate steps and the entire background of the matter has been mentioned in the impugned letter. She has submitted that through this letter, the Housing Board had asked the petitioner either to surrender the deed or appropriate steps would be taken through Civil Court for cancellation of the deed. The

present writ petition was filed before this Court on 15.05.2012 and since then, the matter has remained pending.

10. After hearing the learned counsel for the parties and considering the facts and circumstances of this case, it appears that a registered deed dated 24.04.2008 was executed in which authority of the Housing Board, the petitioner and one Sailesh Kumar Gupta were the signatory. It further appears that one Sailesh Kumar Gupta represented himself as son of Saroj Kumar and claimed that Saroj Kumar had expired. Consequently, the entire transaction was entered into by so-called Sailesh Kumar Gupta.

11. Sailesh Kumar Gupta, s/o Late Saroj Kumar has been made party in the present proceedings as respondent no. 2, but nobody has entered appearance in spite of notice.

12. This Court also finds that one Saroj Kumar has been made respondent no. 3 in the present case who has appeared through a counsel and claims that he is alive and Sailesh Kumar Gupta is not his son. The respondent no. 3 also claims that he is the original allottee of the property involved in the present case. Further, the respondent no. 3 has also claimed that they are in physical possession of the property.

13. This Court finds that there is serious dispute in connection with right, title, interest and possession with respect to the property involved in the present case.

14. This Court is of the considered view that the status of Saroj Kumar- the original allottee cannot be decided in writ jurisdiction. Further, it also cannot be decided as to whether Sailesh Kumar Gupta is son of Saroj Kumar. The fact remains that Sailesh Kumar Gupta has not entered appearance in the present proceedings. Considering the nature of dispute involved in the present case, it is apparent that it requires evidence to resolve the dispute which cannot be decided in writ jurisdiction. Accordingly, no relief as prayed for by the petitioner can be granted in this writ proceedings.

15. Considering the totality of the facts and circumstances of this case, it is certainly open to any of the parties to take appropriate steps in accordance with law with regard to right, title, interest etc. in

connection with the property involved in the present case and also in connection with the status /identity of one or the other person/party.

16. This writ petition is accordingly dismissed with the aforesaid observation.

17. It is made clear that dismissal of this writ petition will not have any consequence in any such proceedings, if initiated by one or the other party.

18. Pending interlocutory application, if any, is closed.

(Anubha Rawat Choudhary, J.)

Pankaj