

**Dilip Kumar Sinha Vs. The State of Jharkhand and Ors**

**Dilip Kumar Sinha Vs. The State of Jharkhand and Ors**

**SooperKanoon Citation :** [sooperkanoon.com/51916](http://sooperkanoon.com/51916)

**Court :** Jharkhand

**Decided On :** May-19-2015

**Appellant :** Dilip Kumar Sinha

**Respondent :** The State of Jharkhand and Ors

**Judgement :**

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(C) No. 6184 of 2014  
Rajrajeshwar Prasad Singh Chandel, son of Late Maharaja Pratap Singh Bahadur,  
resident of Gidhor, P.O. Gidhor, P.S. Laxmipur, District Jamui (Bihar) at present  
residing at 14 Mafiar Road, P.S. Karya, Kolkata700019 (West Bengal) ... Petitioner  
Versus

1. The State of Jharkhand through the Chief Secretary, Government of Jharkhand, Ranchi
2. The Secretary, Department of Registration, Government of Jharkhand, Ranchi
3. The Secretary, Department of Revenue and Land Reforms, Government of Jharkhand, Ranchi
4. The Deputy Commissioner, Deoghar
5. The District SubRegistrar, Deoghar

6. Sri Sri Baba Baidyanath Mandir Prabandhan Board, Deoghar through the Secretary, Sri Sri Baba Baidyanath Mandir Prabandhan Board, Deoghar ... Respondents with W.P.(C) No. 4755 of 2013 Gouri Shankar Sahai, son of Late Jagannath Sahai, resident of village Chandandih, P.O. Pachamba, P.S. & District Giridih ... Petitioner Versus

1. The State of Jharkhand

2. The Deputy Commissioner, Giridih

3. The District SubRegistrar, Giridih

4. The Divisional Forest Officer, Giridih Division, P.O. & P.S. Giridih, District Giridih ... Respondents with W.P.(C) No. 1489 of 2014 Vikash Kumar Gupta, S/o Kamal Kishor Gupta, R/o Village Hulhundu, P.O. & P.S. Sadar Hazaribagh, District Hazaribagh (Jharkhand) ... Petitioner Versus

1. The State of Jharkhand through its Secretary, Department of Revenue, Govt. of Jharkhand, at Project Building, Dhurwa, P.O. + P.S Dhurwa, District Ranchi

2. The Deputy CommissionercumRegistrar, Hazaribagh, At P.O. + P.S. + District Hazaribagh

3. SubRegistrar, Hazaribagh, At P.O. + P.S. + District Hazaribagh ... Respondents 2 with W.P.(C) No. 2088 of 2014 Smt. Usha Singh, W/o Sri Dharendra Prasad Singh, resident of Belan Bazar, Munger, P.O. & P.S. Munger, Subdivision & District Munger, Bihar. At present residing at Hari Kishun Sah Lane, Jalsar Road, Deoghar, P.O. & P.S. Deoghar, DistrictDeoghar, Jharkhand ... Petitioner Versus

1. The State of Jharkhand

2. The Deputy Commissioner, Deoghar, P.O., P.S. & District Deoghar

3. The District SubRegistrar, Deoghar, P.O., P.S. & District Deoghar

4. The Circle Officer, Deoghar ... Respondents with W.P.(C) No. 4816 of 2014 Om Prakash, son of Late Shankar Sahu, resident of village Sewta, P.O. Mandu, P.S.

## Mandu, District Ramgarh... Petitioner Versus

1. The State of Jharkhand
2. The Inspector General of Registration, Govt. of Jharkhand at Project Building, Dhurwa, P.O. + P.S. Dhurwa, District Ranchi
3. The Commissioner, North Chotanagpur at Hazaribagh
4. The Deputy Commissioner, Ramgarh
5. The SubRegistrar, Ramgarh at Gola, P.O. + P.S. Gola, District Ramgarh ... Respondents with W.P.(C) No. 5029 of 2014 Dilip Kumar Sinha, son of Late Radha Krishan Sahay, H. No. 72/12, village Dharmpur, P.O., P.S. & District Latehar ... Petitioner Versus

1. The State of Jharkhand
2. Secretary, Registration Department, Government of Jharkhand
3. SubRegistrar, Latehar
4. Deputy Commissioner, Latehar ... Respondents with W.P.(C) No. 5271 of 2014

1. Prem Prajapati, S/o Late Puran Prajapati
2. Kauleshwar Prajapati, S/o Sri Sohrai Prajapati Both resident of village Bongabar, P.O. & P.S. Mandu, District Ramgarh, Jharkhand ... Petitioners 3 Versus

1. The State of Jharkhand through its Secretary, Department of Revenue, Government of Jharkhand, Project Building, P.O. Dhurwa, P.S. Jagarnathpur, District Ranchi, Jharkhand
2. The Commissioner, North Chotanagpur Division at Hazaribagh, P.O., P.S. & District Hazaribagh, Jharkhand
3. The Deputy Commissioner cum District Registrar, Ramgarh, P.O., P.S. & District, Ramgarh, Jharkhand

4. The SubRegistrar, Gola, P.O. & P.S. Gola, DistrictRamgarh, Jharkhand ... Respondents with W.P.(C) No. 6025 of 2014 Akil Ahmad, son of Hazi Mohamad Seraj, resident of Mohalla Jama Masjid Road, P.O.Hazaribagh, P.S.Sadar, District Hazaribagh, Jharkhand ... Petitioner Versus

1. The State of Jharkhand through the Secretary, Revenue and Land Reform, Government of Jharkhand, Project Building, Dhurwa, Ranchi

2. The Divisional Commissioner, North Chhotanagpur Commissioner, Hazaribagh, P.O. Hazaribagh, P.S. Sadar (Hazaribagh), District Hazaribagh

3. The Deputy Commissioner cum District Registrar, Hazaribagh, P.O. Hazaribagh, P.S. Sadar (Hazaribagh), District Hazaribagh

4. The SubRegistrar, Hazaribagh, P.O.Hazaribagh, P.S.Sadar (Hazaribagh), DistrictHazaribagh

5. The Circle Officer, Sadar (Hazaribagh), P.O.Hazaribagh, P.S. Sadar (Hazaribagh), District Hazaribagh... Respondents with W.P.(C) No. 848 of 2015

1. Sabita Singh, W/o Late Niranjana Singh

2. Kabita Singh, W/o Late Dilip Singh Both resident of village Muramkalan, P.O., P.S. & DistrictRamgarh ... Petitioners Versus

1. The State of Jharkhand

2. The Deputy Commissioner, Ramgarh, P.O. Ramgarh, P.S. Ramgarh, DistrictRamgarh

3. The District SubRegistrar, Ramgarh, P.O.Gola, P.S. Gola, DistrictRamgarh ... Respondents 4 CORAM: HON'BLE MR. JUSTICE SHREE CHANDRASHEKHAR For the Petitioners : Mr. V. Shivnath, Sr. Advocate( 6184/14) Mr. Arvind Kumar Choudhary, Advocate Mr. Vineet Prakash, Advocate (2088/14) Mr. Deepak Kr. Sinha, Adv. (4816/14) Mr. Naresh Pd. Thakur, Adv. (5029/14) Mr. Binod Singh, Advocate (5271/2014) For Respondent State : Mr. V.K. Prasad, S.C. (L & C) Mr. Deepak Kr. Prasad, J.C. to G.P. III Mr. Anil Kumar, J.C. to A.G. Mr. Amit Kumar

Verma, J.C. to S.C. (L&C) Mr. Saket Upadhyay, J.C. to A.A.G. For Respondent No. 6 : Mr. Mr. Prashant Pallav, Advocate C.A.V. On: 15.04.2015 Pronounced on: 19/05/2015 The main questions involved in the writ petitions are whether the registering authority is under a statutory duty to accept a properly stamped deed/document presented for registration, compulsorily and whether the scope of enquiry by the registering authority is confined to section 34 and section 71 of the Registration Act, 1908 only?

2. Before advertng to the rival contentions, a look at various provisions contained in Registration Act, 1908 would be useful. The Registration Act is designed to guard against fraud by obtaining a contemporaneous publication and an impeachable record of document. Section 17 of the Registration Act, 1908 provides that the following documents shall be registered, compulsorily; (a) instruments of gift of immovable property; (b) other nontestamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in 5 immovable property; (c) nontestamentary instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest; and (d) leases of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent; (e) nontestamentary instruments transferring or assigning any decree or order of a Court or any award when such decree or order or award purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immovable property.

3. Proviso to Section 17(1) exempts a lease executed for a period not exceeding 5 years and the annual rent reserved for which is not exceeding Rs. 50/, from compulsory registration. By an amendment vide, Act 48 of 2001, subsection (1A) was inserted in Section 17, providing compulsory registration of the documents containing contracts for transfer for consideration in immovable property for the purpose of Section 53A of the Transfer of Property Act, 1982. Subsection (1A) of Section 17 provides that if such documents are not registered, they shall have no

effect for the purposes of Section 53A of the Transfer of Property Act. Subsection (2) of Section 17 enumerates list of documents/deeds which are not covered under Section 17(a) (b) and (c). Section 18 makes registration of certain documents optional. Sections 21 and 22 provides that certain documents relating to immovable property shall not be accepted for registration unless, those contain description of such property sufficient to identify the same. In certain cases, description of property is required to be given by reference to a government map or survey. Section 28 provides presentation of certain documents covered under Sections 17 and 18 to be presented for registration in the office of SubRegistrar within whose subdistrict the whole or some portion of the property to which the document relates is situated. It is thus, apparent that acceptance of a documents presented for registration before the SubRegistrar/Registrar is not a ministerial act. The concerned SubRegistrar is required to verify certain details as mandated under the Registration Act.

4. Part VI of the Registration Act, 1908 deals with presentation of documents for registration. Section 32 specifies three categories of person who can present document for registration. Section 32(a) provides that a document can be presented for registration by: (i) the person executing the document; (ii) any person claiming under the document presented for registration; and (iii) in the case the said document is a copy of a decree or order, any person claiming under the decree or order.

5. However, clauses (b) and (c) deal with cases where the document is presented by persons other than the aforesaid category of persons namely, their agent, representative or assign. The basic purpose underlying Section 32 is to get the actual executant who executes the documents to be present before the SubRegistrar. Section 34(3) empowers the Registrar to enquire and satisfy himself whether the document presented for registration was executed by the persons by whom it purports to have been executed. The Registrar is also required to satisfy himself as to the identity of the persons appearing before him and in the case of any person appearing as a representative, assign or agent to satisfy himself of right of such person so to appear. Thus, the Registrar is required to satisfy himself

with the due execution of the document. 7

6. Part X of the Registration Act deals with the effects of registration and nonregistration. Section 48 gives primacy to a registered document against any oral agreement or declaration relating to the property subject to the exception provided thereunder. Section 49 reads as under: Effect of nonregistration of documents required to be registered. No document required by Section 17 or by any provision of the Transfer of Property Act, 1882 (4 of 1882), to be registered shall (a) affect any immovable property comprised therein, or (b) confer any power to adopt, or (c) be received as evidence of any transaction affecting such property or conferring such power, unless it has been registered: Provided that an unregistered document affecting immovable property and required by this Act or the Transfer of Property Act, 1882 (4 of 1882), to be registered may be received as evidence of a contract in a suit for specific performance under Chapter II of the Specific Relief Act, 1877 (3 of 1877), or as evidence of any collateral transaction not required to be effected by registered instrument.

7. Section 50 provides that every registered document of the description covered under Section 17(1)(a),(b),(c) and (d) and Section 18(a) and (b) shall take effect against unregistered document relating to the same property.

8. Part XI of the Act deals with duties and powers of the registering officers. In fact, provisions under Section 66(2) except, Sections 51 to 59 and 60 are in the nature of routine functions performed by the registering authority. Section 72 provides that an appeal shall lie, against an order of SubRegistrar refusing to admit a document to registration, to the Registrar to whom such SubRegistrar is subordinate. Section 77 provides that if the Registrar refuses to order registration of a document under Section 72 or an order has been passed by the Registrar under Section 76, a person claiming under such document may within 30 days institute a suit in the Civil Court for a decree directing the document to be registered. Section 81 in Part XIV provides for penalties for making incorrect endorsement, copying, translation etc. of documents and Section 82 provides for penalty for making false statements or delivering false copies or translation etc. before a registering officer.

9. The scheme of the Registration Act, 1908 makes it abundantly clear that merely because an instrument is properly stamped and it is presented by a person or his representative or assign whose identity can be established, the registering authority is not under a duty to register the same, compulsorily. Section 21 provides that nontestamentary document relating to immovable property shall not be accepted for registration unless, it contains a description of such property sufficient to identify the same. Section 21(4) mandates production of a true copy of the map or plan if the nontestamentary document contains a map or plan of any property comprised therein. Section 23 of the Bihar Tenants Holdings (Maintenance of Records) Act, 1973 provides that, no registering authority shall register any instrument of transfer by way of sale, exchange, mortgage, lease, partition, gift, agreement or otherwise of a holding or part thereof unless, the khata pustika in respect of the holding concerned is produced by transferor before the registering authority along with the instrument of transfer. Under Sections 23, 24, and 25, time for presentation of a document other than a Will has been fixed, subject to exceptions. Section 28 provides for place for presentation of the document covered under certain provisions of Section 17 and Section 18. Section 32A which has been introduced in the year, 2001, is an indication that the legislature has also recognised incidents of fraud committed by parties in registering a document to which they had no title. The registering authority is also under a duty to examine whether the authority of the power of attorney holder who has presented a document for registration can be recognised in terms of Section 33. In Section 34 also, expressions enquire, satisfy himself as to the identity and satisfy himself of the right of a such person so to appear occur. Section 72 also makes it clear that refusal by the registering officer to register a document is a quasijudicial order against which an appeal is provided under Section 72. Section 77 provides that against the order of the Registrar under Section 72 and Section 76, a suit may be instituted in the Civil Court, within the local limits of whose original jurisdiction the office of the registering officer is situate. Section 84 provides that every registering officer appointed under the Act shall be deemed to be public servant within the meaning of the Indian Penal Code and every person is legally bound to furnish information to such registering officer when required by him to do so. It further provides that for the purposes of Section 228 of the Indian



Penal Code, proceeding under the Registration Act shall be deemed to be a judicial proceeding. Section 86 protects the act of registering officer done in good faith or refused in his official capacity. From the aforesaid, I find that abundant indication has been provided under the Registration Act itself that the registering officer is not performing a routine function only. In my opinion, wide powers have been conferred upon the registering officer in the matters of registration of a document presented before him for registration. However, the registering authority cannot embark upon a roving enquiry as to title of the vendor and, of course, the registering authority cannot decide the disputed questions of title as well. In *Pashupati Narayan Singh Vs. State of Jharkhand*, 2008 (3) JCR 562, the order passed by this Court in W.P.(C) No. 4277 of 2006 10 has been noticed. The learned Single Judge of this Court held that No Objection Certificate is not required for registering any deed of transfer. In *Nageshwar Thakur & Ors. Vs. State of Jharkhand & Ors.*, 2003 (2) JCR 404 (Jhr), the issue was whether the Registrar can issue direction to the SubRegistrar to enquire and verify the title of the vendor before registration of a document and this Court held that, 'there is no provision in the Registration Act or Rules thereunder empowering the Registrar or SubRegistrar to hold an enquiry on the question of title of the vendor, before registration of the document. In *Bihar Deed Writers' Association & Ors. Vs. State of Bihar & Ors.*, 1988 PLJR 671, it has been held that, it is not for the registering authority to enquire and ascertain the title to its own satisfaction. I respectfully agree with the aforesaid decisions rendered by this Court.

10. In so far as, duties of a registering officer are concerned, Section 81 which provides for prosecution of a registering officer and every person employed in his office liable for prosecution, has to be kept in mind. The expression in a manner which he knows or believes to be incorrect casts a duty on the registering authority either not to register a document presented for registration or to make an endorsement on the document itself of the official communication whereunder, an intimation has been given to the registering authority as to description of a property as government land, forest land etc. Section 81 provides that a registering officer, if registers a document which he knows or believes to be incorrect, and thereby intended to cause or if such act is likely to cause injury to any person, shall be punished with imprisonment for a term which may extend to

seven years or fine or both. In view of the express language used in Section 81 it has to be assumed that inspite of an official communication, if a document is registered by the registering authority, it would cause injury to the State. Now, if a mandatory duty is cast upon the 11 registering officer to register a document properly stamped and presented by a person whose identity can sufficiently be established, in my opinion, it would frustrate the object of the Registration Act, 1908. The law attaches sanctity to a registered document and a presumption of validity of a document is raised once it is found that such document has been registered. A registering officer who is liable to be prosecuted and punished for a term which may extend to seven years cannot be directed to discharge his functions, mechanically. Though, the registering officer cannot compel a person to establish his/her title over the property which is the subjectmatter of the document presented for registration, if on a bare look at the contents of the document discloses that the property does not belong to the person who claims to have sold the same for valuable consideration, the registering officer would be failing in discharging his duty under the Act if he registers the same. Similarly, if by government notification/circular/order, description of certain government properties, forest land etc., have been brought to the notice of the registering officer and the SubRegistrar ignoring the same, orders registration of a document which comprises government land, forest land etc., the registering officer may be liable for prosecution under Section 81 and thus, the SubRegistrar can justifiably refuse to register such document. I find that vide section 2 of the Bihar Act 6 of 1991, section 22A was inserted after section 22 in the Registration Act, 1908, which reads as under:

22. .Registration of documents which is against the public policy. (1) The State Government may, by notification in the Official Gazette, declare that the registration of any document or class of documents is against the public policy. (2) Notwithstanding anything contained in the Act, the registering officer shall refuse to register any document to which the 12 notification issued under subsection (1) is applicable.

11. Section 22A has been inserted by the State Government for preventing registration of any document or class of documents which would be against public

policy. The said provision empowers the registering officer to refuse to register any document to which the notification issued under subsection (1) to Section 22A is applicable. The expression public policy or opposed to public policy finds reference in various enactments including Section 23 of the Contract Act. Though, the expression public policy is not capable of being given a precise definition and it would depend upon the nature of the transaction, there is unanimity of judicial opinion that anything injurious or harmful to the public good or to the public interest would be opposed to public policy. Though, the State Government has not framed Rules for the purpose of section 22A, the legislative intent must serve a guide to the registering officer. 12. In view of the discussions hereinabove, to summarise, the registering authority is authorised to make enquiries; (i) for identification of the person/persons presenting the document for registration, (ii) for identification of the property which is the subjectmatter of registration, (iii) for ascertaining whether the person executing the document has executed the same voluntarily, (iv) for ascertaining the authority of the representative, assign etc. who has presented the document for registration, (v) if the person who has executed the document is dead and his/her representative/assign denies the execution, (vi) for ascertaining whether the person executing 13 the document is a minor or lunatic or idiot, (vii) for ascertaining whether the document presented for registration has been presented within the time prescribed, (viii) whether the property which is the subjectmatter for registration is situated within the local limits of the registering authority, (ix) whether the document presented for registration is accompanied with recent government survey/map and (x) whether the document is properly stamped and complete in all respects or not.

13. The registering authority can refuse registration, if he is satisfied that requirements under the Registration Act are not satisfied. The registering officer can also refuse registration if the document presented for registration is not accompanied with khata pustika as provided under Section 23 of the Bihar Tenants Holdings (Maintenance of Records) Act, 1973. In certain cases registering officer can make appropriate endorsement on the document, if the registering officer has refused to register a document. In cases where it has been specifically brought to the notice of the registering officer that the land which is comprised in the document presented for registration is government land, forest land, Gair

Mazurwa land etc., registering officer can refuse registration of such document of transfer. However, a blanket order/direction containing no specific description of the property, would not be a ground for not registering the document presented for registration. Further, when it has been brought to the notice of the registering officer that litigation with the State or its instrumentality with respect to title of the vendor is pending, a communication shall be made by the registering office to the State/its instrumentality in this regard however, registration of a document cannot be refused on the ground of pending litigation. 14 Besides the above, if it appears to the registering authority that registration of a document would be against public policy, he would certainly refuse to register the same. In all cases where the registering officer refuses to register a document, appropriate endorsement would be made on the saledeed and it would be open to the aggrieved person to file appeal under section 72 of the Act. 14. Having noticed the provisions of the Registration Act, 1908, now I shall deal with the individual cases, briefly. W.P.(C) No. 6184 of 2014 15. Seeking quashing of letter dated 14.08.2014 whereby, the Deputy Commissioner cum Secretary, Sri Baba Baidyanath Mandir Prabandhan Board, Deoghar directed the SubRegistrar, Deoghar to furnish details of the saledeed presented for registration in which the subject land is situated within a radius of 500 meters from Baba Baidyanath Mandir and seeking a direction upon the registering authority to accept the saledeed presented by the petitioner for registration, the present writ petition has been filed. 16. The petitioner claiming himself the rightful owner of the land comprised in Mouza Chowk Chandni No. 414, JB No. 154, total area 19 Katha and 14 Dhurs, states that the land was mutated in his name by the Circle Officer and the petitioner has been paying rent and holding tax to the Deoghar Municipal Authority for the land and building situated thereon. The petitioner who was in dire need of money negotiated sale of a part of the aforesaid land and after receiving Rs. 15,50,000/ from one Hari Prasad Mishra, the petitioner executed a saledeed which was presented for registration on 15.09.2014. However, the saledeed was not accepted by the SubRegistrar, Deoghar and the saledeed 15 executed by the petitioner was not registered. It appears that the Deputy Commissioner respondent no. 4 directed the District SubRegistrar, Deoghar respondent no. 5 to provide information of the saledeeds for the land situated within 500 meters from the Baba Baidyanath Mandir. The

petitioner claims that the aforesaid land was gifted to him by his father Maharaja Pratap Singh Bahadur by a registered deed of gift dated 12.05.1981. 17. Mr. V. Shivnath, the learned Senior Counsel for the petitioner submitted that by letter dated 14.08.2014, the District SubRegistrar was directed by the respondent Deputy Commissioner to send information with respect to sale deeds comprising land within 500 meters of the Temple. It is submitted that the respondent Deputy Commissioner has in fact, issued a direction not to register such sale deeds pertaining to land within 500 meters of the Temple. It is further submitted that the SubRegistrar can refuse to register the instrument only in cases falling under Section 34(a), 34(b) and Section 72 of the Registration Act, 1908. Relying on orders passed by this Court, the learned Senior Counsel submitted that in view of the binding decisions of this Court, the registering authority is under a duty to register an instrument which is adequately stamped and presented by the bonafide owner or his agent. Referring to the scheme formulated for the Management Board, the learned Senior Counsel submitted that the impugned direction contained in letter dated 14.08.2014 is beyond the power conferred upon the Secretary of the Board under the scheme. The learned Senior Counsel refers to the counteraffidavit filed by the respondent registering authority and submitted that the title of the petitioner is not under challenge and the conditions under Sections 34 and 71 of the Registration Act, 1908 are also not attracted. Therefore, the District SubRegistrar respondent no. 5 has illegally refused to accept the sale deed presented by the 16 petitioner for registration. 18. A perusal of impugned letter dated 14.08.2014 indicates that only an information has been sought by the Deputy Commissioner cum Secretary, Baba Baidyanath Mandir Management Board. Letter dated 14.08.2014 is a mere communication seeking information from the Assistant Registrar, Deoghar and it is not an order not to register the sale deeds presented for registration. Pursuant to direction issued by this Court in C.W.J.C. No. 1799 of 2001, scheme for Baba Baidyanath Mandir Management Board has been framed. It is not in dispute that the Management Board for better administration and management of Baba Baidyanath Mandir at Deoghar has been constituted by this Court. Clause VI (3) of the Scheme provides that the Board shall have powers to acquire and dispose of movable and immovable properties in accordance with the procedure established by the Board and the law of the land.

The learned Senior Counsel for the petitioner has submitted that the power under Clause VIII empowers the Secretary to take all necessary steps to implement the decisions of the Board however, in the present case, it has not been brought on record that the Board has taken a decision to acquire land in vicinity of the Mandir. I find that, in the present proceeding powers of the Board and the Secretary under Baba Baidyanath Temple Management Board have not been challenged and therefore, it is open to Baba Baidyanath Temple Management Board to acquire land, in accordance with law. Letter dated 14.08.2014 itself discloses that the Management has taken a decision to acquire land in vicinity of the Temple. In the counteraffidavit, the respondents have denied that the petitioner presented the saled deed for registration on 15.09.2014. Considering the above facts, I do not find any infirmity in letter dated 14.08.2014 and therefore, challenge to the authority of the Deputy Commissioner respondent no. 6 to 17 issue letter dated 14.08.2014 must fail. In view of the scheme of the Registration Act, 1908, whether a document can be registered or not, is a matter which has to be decided by the registering authority who, of course, has to take a decision in accordance with law. Therefore, prayer seeking a direction upon the respondent registering authority to accept the saled deed for registration is declined. W.P.(C) No. 4755 of 2013 19. The petitioner claims that possession of 64 acres and 40 decimals land was delivered to him by the Circle Officer on 07.09.2006. It is stated that a dispute arose with the Divisional Forest Officer, Giridih with respect to title and possession over the land comprised in Khata No. 79, Khama Mouza No. 71 and therefore, Title Suit No. 241 of 1964 was filed. The suit was dismissed however, Title Appeal No. 96 of 1968 was allowed vide, judgment and decree dated 05.12.1972. The order passed by the appellate court was confirmed in S.A. No. 101 of 1973(R) on 25.08.1980. It is stated that the petitioner negotiated sale of a part of the said land and a saled deed in favour of one Gopal Krishna Prasad was presented before the respondent however, it was not registered. In the counteraffidavit, the respondents have resisted the prayer made by the petitioner for registering the saled deed dated 17.09.2012 on the ground that the petitioner has lost the subsequent suit being Title Suit No. 114 of 2003 which was filed by the petitioner seeking temporary/permanent injunction against the Forest Department restraining it from transplanting tree over about 50 acres of the suit land. 20. From the aforesaid, it

appears that there is a dispute with respect to title of the land in question. The registering authority however, cannot adjudicate title of the vendor and therefore, if the petitioner presents the saledeed for registration, 18 the registering authority shall examine whether it complies with requirements in law or not and shall take a decision. W.P.(C) No. 1489 of 2014 21. Aggrieved by the endorsement on the saledeed made by the SubRegistrar, Hazaribagh who returned the saledeed stating that the land comprised in saledeed finds mention in the list submitted by the Circle Officer (Sadar), Hazaribagh and the higher officers have issued directions not to accept such saledeed, the present writ petition has been filed. The petitioner claims that since 1931, the land in question was transferred in the name of other persons several times. There are other saledeeds of the year, 1972 pertaining to the same khata number and plot number which has been duly registered. The jamabandi is also running in the name of the owner and rent receipt has also been issued. It is stated that the land in question was never acquired by the Government. However, the respondent SubRegistrar has returned the saledeed with the aforesaid endorsement dated 02.12.2013. 22. The learned counsel for the petitioner refers to various decisions of this Court including order passed in Suresh Prasad Vs. State of Jharkhand & Ors., [W.P.(C) No. 6173 of 2012] and submitted that the saledeed presented by the petitioner was duly executed and sufficiently stamped and there is no legal or formal defect and therefore, the registering authority has no right to refuse registration of the saledeed. It is further submitted that the registering authority has no power and jurisdiction to conduct a roving enquiry into the nature of right, title or interest of the vendor. Per contra, the learned counsel for the respondent submitted that the land comprised in Khata No. 102, Plot Nos. 2108 and 2139 is the land mentioned in letter dated 13.06.2013 issued by the Circle Officer (Sadar), Hazaribagh. In 19 the said letter a list of government land is given. The land mentioned in the saledeed is a Gair Mazurwa Khas and it finds place in letter dated 13.06.2013. It is further submitted that the petitioner Vikas Kumar Gupta has withdrawn the saledeed which was presented for registration. 23. Considering the above facts, no direction can be issued to the registering officer to register the saledeed presented by the petitioner. W.P.(C) No. 2088 of 2014 24. The petitioner claims that he is the owner of Basauri transferable landed property under Jamabandi No.

1 of 2003 (new) which is comprised in Plot No. 1249 measuring about 1400 sq. ft. in MouzaChandpur in Thana No. 261 of Jasidih Notified Area, Ward No. 3, New Ward No. 8 of Deoghar Nagar Nigam. The petitioner purchased the said land vide, saledeed dated 05.12.2003 and got her name mutated in RegisterII on 31.10.2005 vide, Mutation Case No. 437 of 200506. In the counteraffidavit, it is denied that the petitioner presented the saledeed for registration. The petitioner has asserted in rejoinder affidavit dated 19.01.2015 that the information sought through RTI reveals that the above land is Basauri land and it is further revealed that the land in question is not connected with the land scam. 25. I find that, it has been denied that the document in question was presented before the District SubRegistrar, Deoghar for registration. There is no endorsement of refusal by the District SubRegistrar, Deoghar on the said document. As noticed above, in view of the provisions under the Registration Act, 1908, the registering officer has to take a decision whether transfer deed dated 24.03.2014 can be registered or not. Considering the above facts, no direction can be issued to the respondent no. 3 for 20 registering saledeed dated 24.03.2014. W. P. (C) No. 4816 of 2014 26. The petitioner has averred that saledeed executed by him and Tulsi Prasad in favour of one Sanjay Sharma was presented for registration on 19.06.2014 before the SubRegistrar, Ramgarh at Gola however, the saledeed was returned with endorsement that in view of letters dated 07.10.2010 and 02.04.2012, the land comprised in the said saledeed is a Gair Mazurwa Khas land, which is not transferable. The learned counsel for the petitioner submitted that the land comprised in Khata No.96, Plot No.1063 was acquired by his father from the then landlord through Hukumnama/deed of settlement dated 05.12.1940 and since then they were in possession of the said land. The land in question is a Raiyati land for which after vesting of Jamindari, the petitioner has been paying rent. The learned counsel for the petitioner refers to order dated 19.07.2012 in W.P.(C) No.7325 of 2011 and submitted that in similar situation, this Court ordered registration of saledeed by the SubRegistrar, Ramgarh at Gola.

27. Per contra, the learned counsel for the respondentState of Jharkhand submitted that the land comprised in the saledeed presented for registration is Gair Mazurwa land and therefore, the registering officer has rightly refused to register the same. 28. As noticed above, the registering officer is required to take a



decision if a document is presented for registration. Though, a contention has been raised on behalf of the respondents that, the land comprised in the saledeed is Gair Mazurwa land, I find that endorsement made by the registering officer is vague. Considering the above facts, a liberty is reserved with the petitioner to present the saledeed before the registering officer and if the registering officer takes a decision not to register 21 the same, he shall make appropriate endorsement giving reasons for not registering the said document. W. P. (C) No. 5029 of 2014 29. Seeking a direction upon the SubRegistrar, Latehar to accept the saledeed executed by one Ismail Khan in favour of the petitioner, the present writ petition has been filed.

30. It is stated that one Ismail Khan agreed to sell 2 decimals of land in Thana No.284, Khata No.47, Plot No.571 to the petitioner on payment of valuable consideration of saledeed dated 26.08.2014 was prepared, which was properly stamped however, it was presented on 27.08.2014 for registration, the respondentSubRegistrar, Latehar refused to register the same. The learned counsel for the petitioner submitted that the respondentSubRegistrar though has not given any reason in writing for not registering the saledeed however, on enquiry, the petitioner has come to note that vide letter dated 28.02.2014, the Deputy Commissioner, Latehar has directed the SubRegistrar, Latehar to register the saledeeds on the basis of recent/revisional survey. It is stated that by the information disclosed under the Right to Information Act, 2005, the petitioner has been informed that at the time of registration, a person is required to produce Lagaan receipt, Caste certificate, identification certificate of the seller and purchaser and copy of the recently published Khatiyan. It is submitted that the aforesaid requirement is beyond the purview of the power conferred upon the registering authorities under the Registration Act, 1908.

31. Per contra, the learned counsel appearing for the respondentState submitted that in view of Section 83(2) of the CNT Act, 1908, all 7 Circles of Latehar district and under Section 84(2), all the villages had been notified by Notification 22 dated 20.12.2005 with a direction to carry registration on the basis of recent survey report. It is further submitted that the writ petition is not maintainable inasmuch as, the petitioner is the vendee and the vendor has not come forward. It is further

submitted that the record of rights of the revenue villages of Latehar district have been prepared after considering objection under Section 83(2) of the CNT Act, 1908. The record of rights has been finally published under Section 83(2) in the Extraordinary Gazette dated 10.08.2005. Consequently, vide letter dated 21.09.2013, the Commissioner, Palamau division directed that all matters pertaining to settlement of land, transfer of land should be done on the basis of recent revisional survey. Accordingly, the Deputy Commissioner, Latehar issued letter dated 28.02.2014 for compliance of direction issued by the Commissioner, Palamau Division. 32. As noticed above, under Section 23 of the Bihar Tenants Holdings (Maintenance of Records) Act, 1973, the document of transfer must be accompanied by khata pustika. The communications issued by the Commissioner and the Deputy Commissioner are in line with Section 23 of the Bihar Tenants Holdings (Maintenance of Records) Act, 1973 and therefore, no exception can be taken to the said communications. 33. Considering the above facts, no direction can be issued for registration of saleded dated 26.08.2014. W. P. (C) No. 5271 of 2014 34. The petitioners have averred that the land comprised in Khata No.241, Khewat No.01, Tauji No.28, Plot No. 158/2889, total area 1.78 acres situated in village-Bengabar, Mandu, District Ramgarh is the Raiyati land recorded in the name of Chaman Kumhar. The said land was inherited by the legal heirs and successors of the said Chaman Kumhar, who executed general 23 power of attorney in favour of the petitioners on 15.12.2009. The petitioners presented duly stamped saleded in proper format on 30.08.2014 before the respondent no.4 however, the same was rejected with noting that the land falls within the prohibited category. The land in question is a Raiyati land for which after vesting of Jamindari, the petitioner has been paying rent. The learned counsel for the petitioners refers to order dated 03.12.2013 in W.P.(C) No.6173 of 2012 and submitted that in similar situation, this Court ordered registration of saleded by the SubRegistrar, Chatra. 35. The endorsement dated 30.08.2014 simply states that the land comprised in the saleded is included in the list of prohibited land however, no detailed reason has been given by the registering authority. A perusal of letter dated 02.04.2012 indicates that the registration of Gair Mazurwa land, government land, forest land, etc. has been prohibited by the Divisional Commissioner, North Chhotanagpur Division. I am of the opinion that no exception

can be taken to letter dated 02.04.2012 however, merely on the basis of letter dated 02.04.2012, registration of a saledeed cannot be stopped unless, detailed list of Gair Mazurwa land, government land, forest land etc. is provided to the registering authority. Accordingly, the petitioner would be at liberty to present the saledeed for registration and the registering authority after having satisfied himself that the land comprised in the saledeed is not included in the list of government land, forest land etc. furnished to him, shall take a decision, in accordance with law. W. P. (C) No. 6025 of 2014 36. Seeking quashing of Memo dated 02.04.2012 and for issuance of a writ in the nature of writ of certiorari commanding upon the respondents to register the saledeed presented by the 24 petitioner, the present writ petition has been filed.

37. It is averred that a power of attorney was executed in favour of the petitioner and by virtue of the said power of attorney, the petitioner sold 3 decimals of land comprised in Khata Nos. 95 and 39/54. The land in question was acquired by ancestors of the executor of the power of attorney, vide settlement dated 27.03.1945 by the exlandlord. Rent receipts were issued in favour of the Jagarnath Mahto. The legal heirs and successors of the said Raiyat executed power of attorney, which was registered in the office of SubRegistrar, Hazaribagh on 28.01.2010 and 21.01.2013 in favour of the petitioner and one Jay Prakash Kumar. A saledeed was executed in favour of the purchaser namely, Rajesh Kumar Sinha and the same was presented before the SubRegistrar on 11.09.2014, who refused to register the same. The saledeed was returned with endorsement that the land comprised in the saledeed finds mention in the list provided by the Circle Officer, Hazaribagh.

38. The learned counsel for the respondent State of Jharkhand submitted that vide, Memo dated 02.04.2012, the Divisional Commissioner, North Chhotanagpur prohibited registration of deeds relating to Gair Mazurwa land, government land, etc. and the said decision was communicated to the Registrars of Hazaribagh, Giridih, Dhanbad, Bokaro, Chatra and Ramgarh. 39. In the above facts, if the land comprised in the saledeed is included in the list of government land, forest land, Gair Mazurwa land etc., list of which is provided by the Circle Officer, Hazaribagh to the registering officer, no direction for registration of the saledeed can be

issued. W. P. (C) No. 848 of 2015 40. Challenging refusal to register the saledeed on the 25 ground that the land in question is a Gair Mazurwa Khas land recorded in the survey Khatiyani, the present writ petition has been filed.

41. It is stated that the petitioners sold 26 decimals and 7 decimals land comprised in Plot No.192, Khata No.94 to one Md. Serajuddin, Md. Nasim, Md. Firoj and Sharbari Khatoon and the saledeeds were presented before the District SubRegistrar, Ramgarh (Gola) on 24.02.2014 however, the respondent District SubRegistrar refused to register the same. Relying on decision in W.P.(C) No.1339 of 2013 and W.P.(C) No.7325 of 2011, the learned counsel for the petitioners submitted that the respondent District SubRegistrar has no jurisdiction to refuse registration of saledeed presented before him for registration. It is submitted that the registering authority cannot verify the right, title and interest of the vendor and the enquiry contemplated under the Registration Act is confined to cases falling under Sections 34 and 71 of the Act.

42. The learned counsel for the respondent State of Jharkhand submitted that the land comprised in saledeed executed by the petitioners is a Gair Mazurwa land and therefore, the respondent District SubRegistrar has rightly refused to register the saledeed. 43. In view of the reasons disclosed in letter dated 02.06.2014 whereunder, it has been stated that the land comprised in the two saledeeds is Gair Mazurwa land, no direction can be issued for registration of the saledeeds dated 24.02.2014 presented for registration. 44. Writ petitions are disposed of in the above terms. Let a copy of the order be sent to the Inspector General of Registration for issuing necessary guidelines to the registering officers. In view of Section 22A, the State Government is required to frame Rules. 26 Let a copy of the order be sent to the Chief Secretary, Government of Jharkhand for taking necessary steps. (Shree Chandrashekhar, J.) Jharkhand High Court, Ranchi Dated: 19 /05/2015 Manish/A.F.R.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**