

The State of Jharkhand and Others Vs. Shailendra Kumar Sinha

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Court : Jharkhand

Decided On : Jan-18-2012

Judge : The Honourable Chief Justice Mr. Prakash Tatia & P.P. Bhatt

Appeal No. : L.P.A. No. 380 of 2011

Appellant : The State of Jharkhand and Others

Respondent : Shailendra Kumar Sinha

Judgement :

Learned counsel for the petitioner-respondent now agreed that a direction may be issued to the Registering Authority to pass appropriate order; either to register the document or pass appropriate order refusing to register the document which should be in accordance with law and the pleas which are not available in law may not be taken into account by the Registering Authority and should not be decided under influence by the reply filed by the State.

Since, for registration of a document the competent authority is Registrar/Sub-Registrar of the area, who is required to take a decision with respect to registration of the document and even higher authorities directions can be ignored and without knowing the reasons for refusal to register the documents, the challenge cannot be made and in our opinion, directing the Registering Authority to register the document will be usurping the power of the said authority. Therefore, in view of the statement of the petitioners, it is ordered that the Registering Authority shall pass

the order of registering the document or shall pass appropriate order refusing to register the document, which may be in brief and be communicated to the writ petitioners. The decision may be taken within fifteen (15) days from the date of receipt of the copy of this order, which may be provided by the petitioners to the Registering Authority upon refusal to register the document in question the petitioner will be free to avail remedy available in law.

Learned counsel for the petitioners-respondents submitted that this is a practice in various districts to not to register the document and this Court has also issued directions in L.P.A. No. 08 of 2007 on 3.07.2007, on the basis of assurances given by the Advocate General.

Be that as it may be, the Registering Authority cannot sit over the document by not registering the document and at the same time not passing the order of refusal. The State is directed to ensure that in future the Registering Authority should either register the document or pass appropriate order refusing to register the document.

With the above observations and directions, this L.P.A is disposed of.

Copy of this order may be handed over to learned counsel for the respondent-State.

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