

केस का सं0 ओर तारिख	आदेश ओर पदाधिकारी का हस्ताक्षर	आदेश पर की गई कार्रवा के बारे मे टिप्पणी, तारिख के साथ
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IN THE COURT OF THE DEPUTY COMMISSIONER, RANCHI
Fraudulent Registration Case No.-01/2018-19

29.12.2021


Meena Mishra W/o Yadunandan Mishra Resident of "Anjali Apartment" Flat No. 2/A, 2nd Floor, Gyan Ranjan Path, Burdwan Compound, P.O.+ P.S.-Lalpur, Dist.- Ranchi-834001, Jharkhand
..... Petitioner

-Versus-

1. M/s Durga Developers Pvt. Ltd. through its Director Anil Kumar Jha, Son of Late Deo Chandra Jha. Having its registered office at 7, Shukla Colony, Old Pump House, Hinoo, P.S. Doranda, District Ranchi
2. Vijay Kumar Sahu infrastructure Pvt. Ltd. through its Director Vijay Kumar Sahu having its office at Parmarth Nagar, Tupudana, P.S. Hatia, District Ranchi
..... Opp. Parties

ORDER

Present proceeding has been initiated upon the request of The District Sub-Registrar, Ranchi, who vide his Letter No.302 dated 16.03.2018 has forwarded the complainant petition filed by the petitioner, praying inter-alia to initiate a proceeding U/s 82 and 83 of the Indian Registration Act, 1908 for annulment of Deed No.1766/1503 dated 28.03.2017 claiming the same to have been fraudulently executed by the Opp. Party No.-1 M/s Durga Developers Pvt Ltd through its Director Anil Kumar Jha Son of Late Deo Chandra Jha with respect of Commercial Space Shop No.-03, Ground Floor built up area 4000 Sq.Ft. alongwith proportionate share of land 1245 Sq.Ft. in the premises "Mohan Marketing Complex" constructed over R.S. Plot No.-1738, 1739 under Khata No.-253 measuring total area of 54.54 decimals of Village Argora, P.S. Argora, District Ranchi in favour of the Opp. Party No.-2 namely Vijay Kumar Sahu Infrastructure Pvt Ltd through its Director Vijay Kumar Sahu Son of Arjun Sahu Resident of Parmarth Nagar,


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Tupudana, P.S. Hatia, District Ranchi

On the last date inspite of regular call no one appeared on behalf of the Opp. Party. On perusal of record, I find that, already summon upon the Opp. Party of the instant proceeding has been published in the daily newspaper "Hindustan" dated 24.09.2019, but till date no one appeared on behalf of the Opp. Parties to make argument in the instant case. Hence after hearing the petitioner, the case has been fixed for passing ex-parte order against the Opp. Parties.

According the Learned Advocate appearing on behalf of the petitioner, the lands of Khewat No. 1, Khata No. 253, Plot Nos. - 1739 C area 4 Katha 13 Chatak 9 sq. ft, Plot No.- 1739 B area 4 Katha 11 Chatak 18 sq. ft, Plot No.- 1739 A area 4 Katha 10 Chatak 2 sq. ft., Plot No.- 1739 D area 4 Katha 10 Chatak 3 sq. ft., Plot No.- 1738 B area 10 Katha, Plot No.- 1738 B/1 area 4 Katha 2 Chatak of village Argora, Thana No. 207, District Ranchi were purchased by Late Chandra Moban Mishra, the father of the present petitioner. There has never been any partition of the aforesaid lands. Binod Kumar Mishra, the youngest son of Late Chandra Mohan Mishra had filed partition suit no. 08 of 2005 in the Learned Court of Sub Judge-1, at Khunti in which the petitioner along with other son's and daughter's were made defendants. All of a sudden Binod Kumar Mishra withdrawn the Partition Suit No. 08 of 2005, which was allowed vide order dated 22.12.2009 passed by Learned Sub Judge-1, Khunti. Now the petitioner has filed Original Suit (Partition) No. 411 of 2017 for getting her 1/9th share upon the aforesaid property, which is pending before the Court of Civil Judge (Senior Division-I), at Ranchi.

Recently it has come to the knowledge of the petitioner that M/s Durga Developers Pvt. Ltd. through it's Director Anil Kumar Jha is constructing multi storied commercial/residential in the name and style of Mohan Marketing Complex on the basis


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of a Development Agreement made between (1) Basant Kumar Mishra (2) Subodh Kumar Mishra (3) Binod Kumar Mishra and (4) Rajneesh Mishra dated 17.02.2009. M/s Durga Developer Pvt. Ltd. through its director Anil Kumar Jha, on the basis of the Development Agreement dated 17.02.2009 have sold one commercial space being shop no. 03 on the ground floor having built-up area 4000 sq.ft. and proportionate share of land measuring 1245 sq. ft. in the premises, "Mohan Marketing Complex" to Vijay Kumar Sahu Infrastructure Pvt. Ltd. through its Director Vijay Kumar Sahu. The Deed of Sale made between the aforesaid party is illegal in view of the settled Principle of law M/s Durga Developer Pvt. Ltd. has no valid legal right, title, and interest in the aforesaid properties. The Development Agreement made between (1) Basant Kumar Mishra (2) Subodh Kumar Mishra (3) Binod Kumar Mishra and (4) Rajneesh Mishra with M/s Durga Developer Pvt. Ltd. dated 17.02.2009 has no value in the eyes of law because the same has not been registered. It is settled law that agreements creating an interest in immovable property worth more than Rs. 100/- (One Hundred) are required by law to be registered.

The said Vijay Kumar Sahu has filed as application before the Municipal Commissioner, Ranchi for Registration of Shop No.-3, 1st Floor and Flat No-305/E 2nd Floor in Mohan Marketing Complex, which he has purchased from M/S Durga Developers Pvt. Ltd which has been registered as JA/Reg. Case No-07 of 2018. The aforesaid Basant Kumar Mishra and others has filed their show cause before the Ranchi Municipal Corporation, Ranchi in the said J A/Reg. Case No-07 of 2018 in which they have stated that the building plan map for sanction was submitted by the Developer. The said application is neither signed by the land owner, nor the land owner have granted any registered power of attorney in favour of the developer i.e. the Opp. Party No.-1. Even the Developer got the gift

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deed dated 07.11.2015 executed and registered by a fake Basant Kumar Mishra in favour of Chief Executive Officer, RMC, Ranchi donating 2.35 decimals of land for obtaining plan map sanctioned. It is a case of false personifications of cheating for which the offenders should be punished accordingly. They have further prayed therein to withdraw the sanction of the building plan fraudulently obtained by the Developer.

The applicant of said BC Case No.-415/2014/A, i.e. the said Basant Kumar Mishra have denied the fact that he has not sworn and signed any affidavit declaring inter-alia that he has obtained the certificate of Building Plan Map Case No.-BP02/2014/376(415/2014/A) and that he will complete the construction according to the sanctioned plan map and will not give his land to any builder for construction.

The said Binod Kumar Mishra one of the co-sharer of the land in question like Meena Mishra has filed Case No-32-2018/2019 before this court through Sub-Registrar, Ranchi for cancellation of Deed of Gift No-7282/6154, dated 07/11/2015, executed by a fake person namely Avinash Jha (who impersonated himself as Binod Kumar Mishra) in favour of Chief Executive Officer, Ranchi Municipal Corporation, Ranchi, through its representative Shri Nagendra Dubey. The said Binod Kumar Mishra has also lodged an F.I.R. being Kotwali P.S. Case No-17/2019 dated 20/01/2019 registered Under Section 420,467,468,471,120-B, and 34 of the Indian Penal Code against Anil Kumar Jha, Ram Bharosh Sharma, Rajnikant Sinha and Avinash Jha.

Heard the petitioner. On perusal of the report submitted by the District Sub-Registrar vide Letter No.-302 dated 16.03.2018, I find that, the learned Sub-Registrar has recommended therein for initiation of proceeding U/s 82 and 83 of the Registration Act stating therein that, at the time of registration of the sale deed in


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question i.e. 1503 dated 28.03.2017, the building plan map was not fully sanctioned. The matter regarding sanction of plan map was pending.


On going to the material available on record, I find that, the instant matter is not a case of impersonation, abetment or delivery of false copy or translation. It appears that there is serious inter-se dispute between the parties, i.e, the petitioner and his co-shares and the Opp. Party with respect of the development agreement entered between them. It is settled law that in a proceeding U/s 82 and 83 of the Registration Act, right, title and interest of the parties concerned on the basis of their conflicting claim cannot be decided. So far the issue regarding plan map is concerned, the sanctioning authority i.e. the Ranchi Municipal Corporation has got jurisdiction to deal with the same. Hence, I find that the instant proceeding is not maintainable U/s 82 and 83 of the Registration Act

For the reasons aforementioned, without delving into the merit, the instant proceeding is hereby dropped.

Communicate this order to District Sub-Registrar, Ranchi for information and needful.

Dictated and corrected by me


29/12/2021
Deputy Commissioner
Ranchi


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Deputy Commissioner
Ranchi