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2026:JHHC:32512

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (C) No. 7703 of 2026

Amit Ranjan, son of Ram Naresh Prasad, resident of West Hurhuru Road, P.O.- Hazaribag, P.S. Sadar, District- Hazaribag

... ... Petitioner

Versus

1. The State of Jharkhand through its Principal Secretary, Department of Revenue, Registration and Land Reforms, Government of Jharkhand, Ranchi
2. The Deputy Commissioner, Hazaribagh
3. The Additional Collector, Hazaribagh
4. The Circle Officer, Ichak Circle, District – Hazaribagh

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioner : Mr. Himanshu Harsh, Advocate
Mr. Shresth Gautam, Advocate

For the Respondents : Mr. Rohitashya Roy, Advocate General
Mr. Tarun Kumar Mahato, A.C. to A.G.

Order No. 05 **Dated: 05.11.2026**

1. The present writ petition has been filed for issuance of direction upon the Deputy Commissioner, Hazaribagh (the respondent no. 2) to consider the petitioner's application filed for removal of his land appertaining to Khata No. 154, Plot No. 2606, measuring an area of 42 decimals situated at village – Bonga, P.S. No. 37, District – Hazaribagh from the prohibited list maintained under Section 22-A of the Registration Act, 1908 (in short, "the Act, 1908") as introduced vide the Bihar Amendment Act, 6 of 1991 which has also been adopted by the State of Jharkhand.

2. Learned counsel for the petitioner submits that the petitioner's said land is included in the prohibited list and in spite of his representation seeking removal of the same from the said list, the respondent authorities are sitting idle in the matter.

3. In support of the said contention, learned counsel for the petitioner has placed reliance on the judgment rendered by the

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Hon'ble Supreme Court in the case of ***State of Rajasthan & Others Vs. Basant Nahata*** reported in **(2005) 12 SCC 77** as well as the judgment of learned Division Bench of this Court rendered in the case of **Chotanagpur Diocesan Trust Association & Another Vs. State of Jharkhand & Others** reported in **2025 SCC OnLIne Jhar 2209**.

4. I have perused the judgment of the Hon'ble Supreme Court rendered in the case of ***Basant Nahata (Supra.)*** wherein the constitutionality of Section 22-A of the Act, 1908 as amended by the State of Rajasthan as well as the notifications issued by it in terms thereof were under consideration. Their Lordships have held in the said case that there is nothing in the Statement of Objects and Reasons of the Act, 1908 which can be said to be related to morality or public policy. Even, the preamble or any other provision of the Act, 1908 does not provide any guideline for construing Section 22-A of the said Act. What is "opposed to public policy" would be a matter depending upon the nature of transaction. The pleadings of the parties and the materials brought on record would be relevant so as to enable the court to judge the concept as to what is for public good or in the public interest or what would be injurious or harmful to the public good or to the public interest at the relevant point of time as contradistinguished from the policy of a particular government.

5. It has further been held by the Hon'ble Supreme Court that the doctrine of "public policy" is vague and uncertain and it is not possible to define the said doctrine with precision at any point of

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time. It is not for the executive to fill the grey areas as the said power vests in the judiciary and whenever interpretation of the concept "public policy" is required to be considered, it is for the judiciary to do so, however in doing so, even the power of the judiciary is quite limited.

6. Their Lordships have also held that a thing which itself is so uncertain, cannot be a guideline for anything or cannot be said to be providing sufficient framework for the executive to work under it. Moreover, essential functions of the legislature cannot be delegated to the executive and it must be judged on the touchstone of Articles 14 and 246 of the Constitution. Thus, only the ancillary and procedural powers can be delegated to the executive and not the essential legislative point. Finally, Section 22-A of the Act, 1908 as inserted by Rajasthan Amendment Act, 1976 (Act No. 16 of 1976) has been held to be ultra vires being violative of Articles 14 and 246 of the Constitution of India.

7. I have also perused the judgment of Division Bench of this Court rendered in the case of ***Chotanagpur Diocesan Trust Association (Supra.)***. In the said case, the Bench has struck down section 22-A of the Act, 1908 as well as the consequential notification no. 1132 issued on 26.08.2015 and has set aside all the orders passed by the Sub-Registrars or the officials of the Registration Department pursuant to issuance of the notification dated 26.08.2015 by observing that the decision of the Hon'ble Supreme Court rendered in the case of ***Basant Nahata (Supra.)*** is binding on this Court and the provision considered

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by the Hon'ble Supreme Court in the said judgment is identical to the provision framed by the State of Bihar as adopted by the State of Jharkhand.

8. The learned Advocate General appearing on behalf of the respondents submits that the State has filed two appeals before the Hon'ble Supreme Court being S.L.P. (C) Diary No. 41797 of 2025 and S.L.P (C) Diary No. 26419 of 2026 against the common judgment/ order dated 01.05.2025 passed in W.P.(C) No. 5088 of 2018 and W.P.(C) No. 1121 of 2024 and the said appeal is still pending adjudication. In support of the said contention, the learned counsel has placed the order dated 19.09.2025 passed in S.L.P (C) Diary No. 41797 of 2025 and order dated 15.06.2026 passed in S.L.P (C) Diary No. 26419 of 2026. On perusal of the said orders, it appears that no interim order has been passed in the matter.

9. It is also argued by the learned Advocate General that the State Government is in process of coming up with a new law in this regard. Be that as it may. As of now, the State Government cannot be permitted to act upon the notification no. 1132 dated 26.08.2015 issued in exercise of the powers conferred under Section 22-A of the Act, 1908 as the said notification and the parent law i.e., Section 22-A of the said Act have already been struck down in the case of ***Chotanagpur Diocesan Trust Association (Supra.)***

10. In spite of the aforesaid situation, the prohibited list of lands prepared in exercise of the power conferred under Section 22-A

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of the Act, 1908 continues to be reflected in the portal of National Generic Document Registration System (NGDRS). This situation is putting undue hardship to the persons whose lands are being shown in the said list. Consequent to the said entry, the Sub-Registrars of different districts have been arbitrarily refusing registration of valid sale deeds executed with respect to the lands specified in the prohibited list. This has resulted in filing of numerous cases before this Court by the aggrieved persons whose lands are still being shown in the prohibited list, thereby giving rise to unnecessary litigation.

11. It is a well settled law that a registered sale deed cannot, by itself, guarantee or establish valid ownership, if the seller does not possess a clear, marketable title to begin with. A person can only transfer the right and title that he actually possesses. If the seller's own title is defective, the registration of sale deed executed by him does not cure that defect or create a valid title. The Act, 1908 was enacted with an intent to provide orderliness, discipline and public notice with respect to transactions relating to immovable properties and protection from fraud and forgery of documents of transfer. This is achieved by requiring compulsory registration of certain types of documents and providing for consequences of non-registration. The registration of a document gives notice to the public that such a document has been executed, however it does not confer an unimpeachable validity on all such registered documents. The presumption coming forth from a registered deed of

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conveyance is rebuttable.

12. There is no provision either in the Act, 1908 or the Bihar Registration Rules, 1937 (in short, "the Rules, 1937") conferring power on the Sub- Registrar/officials of the Registration Department to refuse registration of any document on the ground that there is a dispute regarding title of any property.

13. The Supreme Court in the case of ***K. Gopi Vs. Sub-Registrar and Others*** reported in ***2025 SCC OnLine SC 740***, while taking note of the rule-making power under Section 69 of the Registration Act, 1908 in which the Inspector General of Registration has been empowered to superintend registration offices and to make operational rules, has held that no provision under the Act, 1908 confers power on any authority to refuse registration of a transfer document on the ground that the documents regarding title of the vendor have not been produced, or the title of the vendor is not established.

14. The registering officer is not concerned with the title held by the executant. He has no adjudicatory power to decide whether the executant has any title or not. Once an executant executes and presents a sale/lease deed with respect to a land which conforms to the requirement of the Act, 1908 and the Rules, 1937, the registering officer cannot refuse to register the said document, if all the procedural compliances are made and the necessary stamp duty as well as registration charges/fee are paid. It has further been laid down that under the scheme of the Act, 1908, it is not the function of the Sub-Registrars or

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registering authorities to ascertain whether the vendor has the title to the property which he seeks to transfer. Once the registering authority is satisfied that the parties to the document are present before him and they are admitting execution thereof before him, subject to making procedural compliances as narrated above, the document must be registered. The execution and registration of a document has the effect of transferring only those rights, the executant possesses. Moreover, the rule-making power under Section 69 of the Act, 1908 cannot be exercised to make a rule that is inconsistent with the provisions of the said Act.

15. One of the submissions of the learned Advocate General is that the persons whose lands are appearing in the prohibited list, should approach the Deputy Commissioner of the concerned districts seeking removal of their lands from the said list and their cases would be individually considered.

16. I do not find any substance in the said submission of learned Advocate General since Section 22-A of the Act, 1908 as well as the notification dated 26.8.2015 have already been struck down by learned Division Bench of this Court and there is no reason to relegate the petitioner or other similarly situated persons to individually request the executive authorities for this purpose.

17. Moreover, the State Government has unilaterally put the land of the petitioner and other similarly situated persons in the prohibited list on the pretext of public policy without providing any opportunity of hearing to them. Debarring any person from

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transferring his land has severe civil consequence which necessitates due compliance of principles of natural justice.

18. For the reasons as aforesaid, the writ petition is disposed of with the following directions: -

(i) The respondent-State is directed to forthwith delete the prohibited list of lands being maintained in the NGDRS portal.

(ii) The Sub-Registrars within the State of Jharkhand shall register the deeds of transfer if the same are found conforming to the requirements of the Act, 1908 and the Rules, 1937.

(iii) The Secretary, Department of Revenue, Registration and Land Reforms, Government of Jharkhand is directed to issue necessary Circular to all the Deputy Commissioners for strict compliance of the direction issued by this Court.

(Rajesh Shankar, J.)

November 05, 2026
Ritesh/A.F.R.
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