



HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 52748 of 2016

Smt. Prema Devi

.....Petitioner(s)

Versus

State of U.P. and 4 others

.....Respondent(s)

Counsel for Petitioner(s)	: Ashwani Kumar Mishra
Counsel for Respondent(s)	: C.S.C., Hari Pratap Gupta, Ramesh Chandra Tiwari

AFR

Reserved on:03.07.2026

Delivered on:07.07.2026

Court No. – 4

HON'BLE NEERAJ TIWARI, J.

HON'BLE VIVEK SARAN, J.

(Per:Hon'ble Vivek Saran, J.)

1. Heard Sri Ashwani Kumar Mishra, learned counsel for the petitioner, learned Standing Counsel for the respondent nos.1 and 2 and Sri Ramesh Chandra Tiwari, learned counsel for the respondent nos.3 to 5.

2. The instant petition has been preferred with the following relief:

“I. Issue a writ order or direction in the nature of certiorari for quashing the impugned order dated 24.09.2016 passed by the Assistant Inspector General of Registration, Gorakhpur.”

3. The brief facts leading to the filing of the petitions are as follows:

The complaint was made by one Jang Bahadur @ Jangi @ Jangi Prasad @ Jagdish before respondent no.2 on 14.07.2016 alleging that the registered sale deed dated 12.07.2026 bearing Registration

No.2452/2016 alleging that his real brother Firangi Prasad impersonated complainant/Jang Bahadur has sold his land situate at villages Rakauli, Jharkata, Sodhaveer and Kohna, Gopalpur, District Gorakhpur to how own wife Prema Devi and as the said sale deed has been executed by playing fraud, therefore, the same may be cancelled.

4. On the said complaint vide order dated 14.07.2016 the Deputy Registrar, Gola, Gorakhpur was directed to submit a report and also other executants and the marginal witness and the deed writer were also informed to submit proof of identity. Thereafter on the basis of an enquiry and exercising the provisions of the Government Order dated 13.08.2013 bearing no. क0नि0-07-684/11-2013-700(446)/13, the respondent no.2/Assistant Inspector General of Registration, Gorakhpur cancelled the sale deed dated 12.07.2016 being Registration No.2452 of 2016 registered at the office of Sub-Registrar, Gola Janpad, Gorakhpur.

5. Learned counsel for the petitioner has submitted that the registering authority under the Registration Act, 1908 (hereinafter referred to as 'the Act') after registration of sale-deed becomes *functus officio* and ceases to have any jurisdiction or authority and neither the Sub-Registrar nor any superior officer has authority to cancel a duly registered sale-deed. He further submitted that the Full Bench of this Court in **Re:Smt. Kusum Lata v. State of U.P.**¹ has held that a duly registered sale-deed under the Act cannot be cancelled by an envoking administrative power and it is only the civil court of competent jurisdiction which can hold a duly registered document as null and void. He has further submitted that even the Government Order dated 13.08.2013 has been quashed by this Court in **Re: Krishna Kumar Saxena and another v. State of U.P. and 9 Others**².

6. Learned counsel for the respondents has submitted that the order dated 24.09.2016 passed by the respondent no.2 is wholly just and legal and call for no interference, as the same is on the basis of a fact finding

1 2018(6) ADJ 344

2 2018(5) ADJ 156

enquiry. He has further submitted that at the relevant time of passing the order, the Government Order dated 13.08.2013 was in existence and any quashing of the Government Order at a subsequent stage would not nullify its effect. He has further made a statement at bar that the contesting respondent are pursuing appropriate civil remedies as well.

7. Heard learned counsel for the parties and perused the record.

8. The sole issue for consideration before this Court is as to whether the respondent no.2 was justified in cancelling the duly registered sale-deed.

9. There is no dispute about the settled legal position with respect to the judgment rendered in **Re: Smt. Kusum Lata (supra)** that a duly registered sale deed under the Act cannot be set aside by registering authority or by any authority invoking administrative powers, if the registration is questioned even on the count of impersonation/fraud. The relevant paragraphs of the judgment are reproduced hereunder:

"(1) - This Larger Bench has been constituted under the orders of Hon'ble the Chief Justice on basis of the order dated 22.05.2017 passed in Writ-C No. 2973 of 2016. In the case aforesaid, a Division Bench of this Court arrived at the conclusion that the view taken in the case of Radhey Shyam Arora Versus State of U.P. and 6 others (Writ-C No. 63439 of 2013), decided on 20.11.2013 is in conflict with a view taken in Raj Kumari Versus State of U.P. and others (Misc. Bench No. 2562 of 2014), decided on 28.03.2014 and looking to the divergent views taken by two Division Benches matter requires consideration by a Larger Bench. The Division Bench under the order dated 22.05.2017 referred following questions for adjudication by Larger Bench:-
"(a). Whether after a sale deed has been registered, the Assistant Registrar has any authority of law to cancel the registered sale deed under the provisions of the Registration Act, 1908 even if allegation of impersonation/fraud are made?

(b). Whether the allegations of fraud are essentially, an allegation of fact which need examination of oral or documentary evidence and can be adjudicated on the basis of evidence to be led by the parties before competent civil court?

(c). Whether the judgment in the case of Raj Kumari (supra) or the judgment in the case of Radhey Shyam Arora (supra) lays down the correct law?..... "

*"(10)- The reference is answered in the terms that **a sale deed registered under the Act, 1908 cannot be cancelled or set aside by registering authority or by any authority invoking administrative powers, if the registration is questioned even on the count of impersonation/ fraud.**"*

10. Further it is also not in dispute that this Court in **Re: Krishna Kumar Saxena and another (supra)** has also quashed the Government Order dated 13.08.2013 as being wholly without jurisdiction on the count that no enquiry could be initiated by the authority or the document could have been annulled by the authority. The relevant paragraphs are extracted hereunder:

*“(30)- The Government Order dated 13.8.2013 confers unfettered and arbitrary powers upon the Registering Authority in violation of the express provisions of the Registration Act and such Government Order cannot be invoked to annul a document. **The Government Order dated 13.8.2013 is not only arbitrary but is wholly without jurisdiction and cannot be sustained.***

*(33)- In the light of the aforesaid, we find that the respondent nos. 4 to 10 had no locus standi to question the veracity of the sale deed. No enquiry could have been initiated nor the authority could have annulled the document. Consequently, the impugned orders dated 23.9.2016 and 18.10.2016 passed by Assistant Inspector General (Registration/Stamp), Rampur being without jurisdiction cannot be sustained and are hereby quashed. **The Government Order dated 13.8.2013 is also quashed.**”*

11. Further this Court finds that once the law is settled then there can be no other view possible in the matter regarding the competence of the authorities to annul the duly registered sale-deed.

12. Insofar as the submission of learned counsel for the respondents that the order impugned has been passed prior to the quashing of the Government order by this Court is wholly misconceived and cannot be appreciated. Once the Government order has been set aside then any action which may have been taken by any authority cannot survive.

13. In view of the aforesaid discussion, the writ petition succeeds and is **allowed**, the order dated 24.09.2016 passed by the Assistant Inspector General of Registration, Gorakhpur is quashed.

14. No order as to cost.

15. It is however open for the respondents to seek appropriate civil remedies available to him under law and the same shall be decided on merits without being influenced by this judgment.

(Vivek Saran,J.) (Neeraj Tiwari,J.)

July 07, 2026

Deepika