



**A.F.R.**

Neutral Citation No. -  
2026:AHC-LKO:18111

**HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW**

**WRIT - C No. - 1000572 of 2015**

Mohd. Yaqoob and another

.....Petitioner(s)

Versus

District Registrar/A.D.M. Fandr Bahraich and 2 others

.....Respondent(s)

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Counsel for Petitioner(s)	:	Mohammad Aslam Khan,
Counsel for Respondent(s)	:	C.S.C., Rajeiu Kumar Tripathi, Vinay Shukla

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**Court No. - 4**

**HON'BLE IRSHAD ALI, J.**

1. Heard Shri M.A. Khan, learned Senior Advocate holding brief of Mohammad Aslam Khan, learned counsel for the petitioners, learned Standing Counsel appearing for the respondent-State, Shri Vinay Shukla, learned counsel for the respondent no.2 and Shri Abhishek Shukla, learned Advocate holding brief of Shri Rajeiu Kumar Tripathi, learned counsel for the respondent no.3.

2. By means of the present writ petition, the petitioners have prayed that a writ of Certiorari be issued quashing judgment dated 15.12.2014 (Annexure No.6 to the writ petition) passed by opposite party no.1, with further prayer that writ, order or direction be issued by this Court which may appear to be just and appropriate under the facts and circumstances of the case.

3. Factual matrix of the case is that dispute relates to plot nos.41 and 42 situate in village Meharban Nagar, Pargana and Tehsil Nanpara, District Bahraich which were recorded in the name of Vedant Sanstha, Arya Nagar, Nanpara, District Bahraich. Pravin Kumar Sharma, claiming himself to be President of the Society executed a sale deed in respect to plot no.41 in favour of opposite party no.2 which was

presented for registration before the Sub Registrar, Nanpara on 4.1.2011 who summoned the executant for recording his statement.

Despite the notice, Praveen Kumar Sharma did not turn up to admit the execution. Sub Registrar, Nanpara refused to register the document on 3.2.2011. Being aggrieved, opposite party no.2 filed a time barred appeal along with application under Section 5 of the Limitation Act.

On coming to know about pendency of the appeal, an application under Section 5 of the Limitation Act, the petitioner no.1 filed his objections. Opposite party no.1 vide order dated 15.12.2014, without condoning the delay though he was not empowered in view of the law, relying upon the judgments passed by the Apex Court, allowed the appeal, after rejecting the objections filed by the petitioner no.1 directing Sub Registrar, Nanpara to get the sale deed registered, who accordingly complied the order.

4. Shri M.A. Khan, learned Senior Advocate submits that Section 5 of the Limitation Act applies to the Court and not to the public servants, therefore, the order of the Appellate Authority directing registration of sale deed is wholly without jurisdiction and as such, the same is liable to be set aside by this Court.

5. Learned Senior Advocate next submits that the delay condonation application filed under Section 5 of the Limitation Act has not been allowed and without condoning the delay, he proceeded to pass the order.

6. In support of his submissions, learned Senior Advocate has placed reliance upon judgment rendered in the case of **Raghuvir Narain Rastogi v. State of U.P. and others** reported in **2005(2) AWC 1814 (LB)**.

7. On the other hand, Shri Vinay Shukla, learned counsel for the respondent submits that in pursuance to the order passed by the Appellate Court, sale deed has been registered and in case the petitioners are aggrieved by registration of sale deed he may approach the Civil Court for its cancellation.

8. Learned counsel for the respondent next submits that the petitioners have not approached the Appellate Court by filing objection in regard to maintainability of application under Section 5 of the Limitation Act.

9. Having heard the rival submissions of learned counsel for the parties, I have perused the material on record as well as case-law cited by learned counsel for the petitioners.

10. For deciding the controversy involved in the present writ petition, paragraphs 13, 14, 19, 23 and 24 of the judgment are extracted here-in-below:

*"13. The case of M/s. Goodearth Steels Pvt. Ltd. Industrial Area Oral (supra) relates to filing of a reference application under Central Excise Act, 1944. A Division Bench of this Court after considering the various Apex Court judgments reiterated the aforementioned principle and held that the provision contained in Limitation Act shall be applicable only to courts not to a proceedings before an authority.*

*In view of aforementioned proposition of law that provision contained in Limitation Act cannot be extended to a proceedings before the authority or Tribunal, the present petition seems to be well founded.*

*14. The office of Sub-Registrar or Registrar does not function as a Court may be gathered from certain provisions of the Registration Act itself. Sub-Registrars, Registrars are appointed by the Government in pursuance to provision contained in Sections 5, 6, 6A and 7 of the. Casual vacancies are filled up in pursuance to provision contained in Sections 10, 11 and 12 of the. Under Section 14 of the State Government have been empowered to establish several offices under the. The format for the seal of Registering Officers have been provided under Section 15 of the.*

*19. As provided by Section 84 of the Act, every Registering Officer shall deem to be a public servant but not a Judge or Judicial Officer. It is not necessary that every public servant should be a Judge or Judicial Officer, though a Judicial Officer or a Judge shall be a public servant. A person holding the post of Judicial Officer or a Judge is supposed to engage only to provide justice to the people. Such officer may not have responsibility which is being bore by ordinary Government servants.*

*23. Under the above aforementioned facts and circumstance and provision of law discussed, the office of Registrar, Additional Registrar or the Sub-Registrar may not be treated as a Court. Accordingly the provision contained in Section 5 of the Limitation Act shall not be applicable in a proceeding under the Registration Act. Section 5 of the Limitation Act categorically extends the power for extension of period beyond the date of limitation provided by the Limitation Act or statute to a Court*

*and not to other authorities. For convenience Section 5 of the Limitation Act is reproduced as under :*

*"Extension of prescribed period in certain cases.--Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be admitted after the prescribed period if the appellant or the applicant satisfies the Court that he had sufficient cause for not preferring the appeal or making the application within such period."*

*24. Under the above facts and circumstances, the Sub-Registrar or the appellate authority under the though works as public servant but does not discharge duties as presiding officer of a Court. Accordingly, the Limitation Act, shall not be applicable. The impugned order suffers from lack of jurisdiction. Hence, the writ petition deserves to be allowed."*

**11.** Perusal of the above-extracted judgment shows that the office of Sub-Registrar or Registrar does not function as a Court may be gathered from certain provisions of the Registration Act itself. Sub-Registrars, Registrars are appointed by the Government in pursuance to provision contained in Section 5, 6, 6A and 7 of the Act. Casual vacancies are filled up in pursuance to provision contained in Sections 10, 11 and 12 of the Act. Under Section 14 of the Act State Government have been empowered to establish several offices under the Act. The format for the seal of Registering Officers have been provided under Section 15 of the Act.

**12.** As provided by Section 84 of the Act, every Registering Officer shall deem to be a public servant but not a Judge or Judicial Officer. It is not necessary that every public servant should be a Judge or Judicial Officer, though a Judicial Officer or a Judge shall be a public servant. A person holding the post of Judicial Officer or a Judge is supposed to engage only to provide justice to the people. Such officer may not have responsibility which is being bore by ordinary Government servants. For ready reference, Section 21 of the I.P.C. is reproduced as under:

*"Section 21 of the I.P.C. defines who shall be public servant. For convenience Section 21 is reproduced as under :*

*"Public servant".--The words "public servant" denote a person falling under any of the descriptions hereinafter following, namely :*

*First.--(Repeated by the Adaptation of Laws Order, 1950).*

*Second.--Every Commissioned Officer in the Military, Naval or Air Forces of India ;*

*Third--Every Judge including any person empowered by law to discharge, whether by himself or as a member of any body of persons, any adjudicatory functions ;*

*Fourth--Every Officer of a Court of Justice (including a liquidator, receiver or Commissioner whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorised by a Court of Justice to perform any of such duties ;*

*Fifth--Every juryman, assessor, or member of a panchayat assisting a Court of Justice or public servant ;*

*Sixth--Every arbitrator or other persons to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority ;*

*Seventh--Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement ;*

*Eighth--Every officer of the Government whose duty it is, as such Officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;*

*Ninth--Every Officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of the Government, or to make any survey, assessment or contract on behalf of the Government, or to execute any revenue-process or to investigate, or to report, on any matter affecting the pecuniary interests of the Government, or to make, authenticate or keep any documents relating to the pecuniary interest of the Government, or to prevent the infraction of any law for the protection of the pecuniary interests of the Government.*

*Tenth--Every Officer whose duty it is, as such officer, to take, receive, keep or expend any property, to make any survey or assessment or to levy any rate or tax for any secular common purpose for the ascertaining of the rights of the people of any village, town or district ;*

*Eleventh--Every person who holds any office in virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election ;*

*Twelfth--Every person--*

*(a) in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty by the Government;*

*(b) in the service or pay of a local authority, a corporation established by or under a Central, Provincial or State Act or a Government company as defined in Section 617 of the Companies Act, 1956 (1 of 1956)."*

**13.** Under the above aforementioned facts and circumstances and provision of law discussed, the office of Registrar, Additional Registrar or the Sub Registrar may not be treated as a Court. Accordingly the provision contained in Section 5 of the Limitation Act shall not be applicable in a proceeding under the Registration Act. Section 5 of the Limitation Act categorically extends the power for extension of period beyond the date of limitation provided by the Limitation Act or statute to a Court and not to other authorities. For convenience Section 5 of the Limitation Act is reproduced as under:

*"Extension of prescribed period in certain cases.--Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be admitted after the prescribed period if the appellant or the applicant satisfies the Court that he had sufficient cause for not preferring the appeal or making the application within such period."*

**14.** In view of the reasons assigned above, it is evident that in the argument of learned Senior Advocate has force and the order passed by the respondent no.1 allowing the appeal directing registration of sale deed is wholly without jurisdiction and as such, is liable to be set aside by this Court. Arguments advanced by learned counsel for the respondents that the sale deed executed is matter of different forum, therefore in the writ petition no further action is to be taken in response thereof.

**15.** In the opinion of this Court, the registration of sale deed was executed in pursuance to an order passed in appeal. Registration of the sale deed was not executed in a independent capacity, therefore, the order passed by the Appellate Court and registration of sale deed is dependent upon the order of the Appellate Court.

**16.** Considering the above facts and circumstances of the case, the Sub-Registrar or the Appellate Authority under the Act though works as public servant but does not discharge duties as presiding officer of a Court. Accordingly, the limitation Act shall not be applicable. The impugned order suffers from lack of jurisdiction. Hence the writ petition deserves to be allowed.

17. In view of the above, writ in the nature of *Certiorari* is issued quashing the impugned order dated 15.12.2014 (Annexure No.6 to the writ petition) passed by the opposite party no.1 with all consequential actions.

18. In the result, this writ petition succeeds and is hereby **allowed**.

**(Irshad Ali,J.)**

**March 10, 2026**

GK Sinha