IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.409 of 1998

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Mohd. Anwar Hussain Ansari, son of Mohd. Ishhque Ansari , resident of Mohalla-Purani Sahar Baradari, Ward No. 1 , P.S.-Daudnagar, District-Aurangabad.

.... Petitioner

Versus

1. The State of Bihar
2. Inspector General, Registration, Bihar.
3. District Collectorate-cum-Registrar of the District, Auranabad
4. Officer-in-Charge, District Legal Section, Aurangabad
5. Sub Registrar, Daudnagar (Aurangabad)

.... Respondents

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Appearance :
For the Petitioner/s : Mr. ACHUTA NAND MISHRA
For the Respondent/s : Mr. S.D.YADAV (GP8)

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT
Date: 16-02-2015

On 12.02.2015, when the case was called out nobody was present. Situation is the same today, this Court finds no other alternative but to dispose of the case on the basis of material available on record.

In the present petition, the petitioner is challenging the order vide Impound Case No. 71/96-97 (Annexure-3) issued by the District Collector, Aurangabad whereby and where under the Collector determined the quantum of stamp duty and penalty by way of fine of the same amount and further prayer is for quashing the notice dated 11.09.1997 vide Impound Case No. 71/96-97 (Annexure-4) issued under the signature of Officer-in-charge, District Legal Section, Aurangabad, respondent no. 4 asking the petitioner to deposit the deficit stamp duty worth Rs. 2,34,804/- and further fine worth Rs. 2,34,804/- in total for an amount of Rs. 4,69,608/- and failing to deposit, a proceeding of certificate will be initiated. A further prayer has been made for quashing the notice dated 29.10.1997 vide Impound Case No. 71/96-97 (Annexure-5) issued under the signature of Officer-in-charge, District Legal Section, Aurangabad, respondent no. 4 directing the petitioner to pay the deficit stamp duty including the penalty under Section 48 of the Indian Stamp Act, 1899, on failure, recovery proceeding provided under Section 48 of Indian Stamp Act, 1899 will be initiated.

As from the record, it appears that on 20.02.1996, a sale deed was presented in the office of Sub Registrar, Daudnagar for registration relating to land appertaining to Khata No. 596, Plot No. 1589 for 04 Acres showing consideration money of Rs. 12,000/- being a sandy land in Kita Suntari Ward No. 1 Anchal and P.S.-Daudnagar, District-Aurangabad. The Sub-Registrar, Daudnagar in exercise of power under Rule 9 of Bihar Stamp (Prevention of Under-Valuation of Instruments) Rules, 1995 referred the matter to the Collector making allegation that the petitioner with the view to evade the stamp duty under valued the instrument and placed for registration and mentioned that the valuation given of instrumental is very low considering the market value of similar nature of property. The District Collector on receipt of the complaint conducted the enquiry into the matter and in course of the enquiry, the petitioner has filed the representation by way of its rejoinder claiming that the nature of land is sandy being not fertile and valuation that has been given by him is the correct valuation. He has also annexed the copy of sale deed dated 17.09.1995 of the adjoining land and has declared that the land in question is very far away from the residential area and situated at near river Sone, which is annexed as Annexure -2 of the writ application.

The Collector vide order dated 25.10.1996 directed for realization of stamp duty of Rs. 2,34,804/- and equal amount as penalty to be recovered from the petitioner and thereafter in the said Impound Case No. 71/96-97 a notice dated 11.09.1997 was issued to deposit the deficit stamp duty that has been determined by the Collector. When the money was not deposited again a notice was issued to the petitioner if the petitioner would fail to pay the said amount, a proceeding for recovery of the said amount is to be initiated under Section 48 of the Stamp Act. An appeal was filed by the petitioner before the Divisional Commissioner, Magadh Division challenging the order of the Collector for demand to pay the amount aforesaid and its consequential order for initiation of proceeding under Section 48 of the Act. The Commissioner also dismissed the appeal of the petitioner, which is not on record. The petitioner has annexed the different sale deed in support of contention that the market value that has been given in the sale deed cannot be said to be incorrect.

In the counter affidavit, the State has taken plea that the District Magistrate has been authorized to prepare the guideline for valuation of different kind of lands of their district based on different incidents in pursuance of order of this Court in C.W.J.C. No. 1431 of 1996 and analogous cases, comparing valuation of land fixed by the Collector vis-à-vis valuation provided by the petitioner, the valuation given in the sale deed by the petitioner is not correct. The land has been shown is below the actual valuation of the land the order that has been passed by the Collector is correct.

Before this Court, the petitioner has not produced the order of Commissioner. The order of Collector has directed for payment of deficit fee stamp of Rs. 2,34,000/- including the penalty of equal amount is correct and the same is required to be realised.

Accordingly, this Court does not find any merit, the petition is dismissed.

(Shivaji Pandey, J.)

Vats/-

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