IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12906 of 2014

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1(a) Most Vimla Devi, wife of late Mathura Prasad Rai (Original petitioner)

1(b) Arbind Kumar @ Arbind Kumar Rai, son of late Mathura Prasad Rai (original petitioner).

1(c) Manoj Kumar Rai, son of late Mathura Prasad Rai (original petitioner).

All are residents of Mohalla Gullowara (Purani Ram Chauk), Ward No. 13 (New), P.O. Lal Bagh, P.S. Nagar, District- Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Arbon D.P.T. Development.
2. The Chief Executive Officer, Darbhanga Municipal Corporation, Darbhanga.
3. Municipal Commissioner, Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arbind Kumar Sharma

For the Respondent/s : Mr. Shashi Shekhar Pd. Sinha, AC to GA-13

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL ORDER

5 08-10-2015 Heard Mr. Arbind Kumar Sharma, learned counsel appearing for the petitioner and learned counsel for the State.

The original writ petitioner Late Mathura Prasad Rai and presently the substituted heirs have questioned the order passed by the Chief Executive Officer, Municipal Corporation, Darbhanga on 5.6.2003 (Annexure-1) whereby the holding tax in respect of holding nos.1018, 1019 and 1020 has been determined. In fact this order was appealed against by the original petitioner under section 143 of the Bihar Municipal Act, 2007 before the District Judge giving rise to Miscellaneous Appeal No.06 of 2013 and which has been dismissed on grounds of laches and delay vide judgment and order dated 14.3.2014 inasmuch as whereas the order passed by the Chief Executive Officer is dated 5.6.2003, the original petitioner chose to file the appeal only in 2013 and which has been rejected accordingly. The original petitioner has since deceased and has been substituted by his legal heirs.

The only issue that has been raised by the petitioners to question the impugned order is that it was passed without holding any enquiry.

A counter affidavit has been filed on behalf of the Corporation and in paragraph 7 thereof it is stated that an objection was filed by the original petitioner on 19.9.2000 in relation to holding no.1018 and whereafter notice was issued by the Administrator and after hearing the original petitioner order was passed on 18.4.2001 in presence of the original petitioner who had also signed on the order, a copy of which is placed at Annexure-C. In so far as holding no.1020 is concerned the wife of the original petitioner Smt. Vimla Devi who is substituted petitioner no.1 herein filed an objection and also appeared before the Administrator on 18.4.2001. By order dated 7.6.2001 the objection has been rejected. A copy of the orders is placed at Annexure-F to the counter affidavit. The original petitioner also filed an objection in relation to holding no.1019 and which was again rejected on 18.10.2000 vide order placed at Annexure-I. It is stated that despite this position that another objection was filed by the original petitioner on 11.9.2002 and which has been disposed of by the impugned order dated 5.6.2003 placed at Annexure-1. It is further stated in paragraph 18 of the counter affidavit that although dues has been paid by the petitioner in respect of holding no.1020 but there are huge arrears in respect of holding nos.1018 and 1019.

In the circumstances discussed and in view of the situation explained in the counter affidavit, no cause for indulgence is made out.

The writ petition is disposed of.

(Jyoti Saran, J)

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