IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14014 of 2013

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Md. Shakib S/O Md. Shoeb R/O Village - Choti Balia, P.S. Balia, P.O. Lakhminia, District – Begusarai

.... Petitioner

Versus

1. The State Of Bihar Through I.G. Registration, Bihar, Patna
2. Assistant I.G. Registration, Munger
3. The Collector - Cum - District Magistrate, Begusarai
4. The District Sub - Registrar, Begusarai
5. The Sub - Registrar, Balia, Begusarai

.... Respondents

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Appearance :

For the Petitioner/s	:	Mr. S.M. Shabbir Alam, Advocate
	:	Mr. Sanjay Sinha, Advocate
For the Respondent/s	:	Mr. Gyan Prakash Ojha, G.P. 22
	:	Mr. Sushil Kr. Singh, AC to G.P. 22

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL ORDER

6 13-10-2015 Heard learned counsel for the petitioner and the State.

2. The petitioner seeks quashing of the order dated 06.05.2013 passed by the Assistant Inspector General, Registration, Munger as well as order dated 08.01.2012 of District Sub-Registrar, Begusarai (respondent no.4) directing him to deposit further sum of Rs.2,10,600/- as deficit fees.

3. The facts of the case in short is as follows:

The petitioner purchased land pertaining to khata nos. 3582 and 3583 under Thana no. 627 (Balia), measuring 4 kathas (16.20 decimals) and consequently submitted sale deed for registration before the Sub-Registrar, Balia. The value of land was mentioned as Rs. 3,24,000/- on which he paid Rs.42,120/- as registration fees.

4. The District Sub-registrar had some apprehension that the value of the property mentioned in the sale deed was less than the market value. He inspected the plot along with the District Sub-Registrar, Begusarai and office clerk, one Brajnandan Verma on 18.01.2012. On inspection of the plot, the District Sub-Registrar came to the conclusion that the plot was a residential plot and not an agricultural plot. The value of the property was estimated as to be Rs. 24,30,000/- as against Rs.3,24,000/- mentioned in the sale deed. On the difference of valuation amount, (24,30,000 – 3,24,000 = 21,06,000) a sum of Rs. 1,68,480/- was liable to be paid as Stamp duty.

5. The District Sub-Registrar, as such vide letter dated 16.03.2012 referred the matter to the Assistant Inspector General, Registration, who was vested with the power of Collector under Section 2 (9) of Indian Stamp Act vide notification dated 26th September, 1996, published in Gazette on 25.06.1997. On receipt of the record, the A.I.G., Registration acting as Collector sought a report from the Circle Officer, Gogri. However, no report was submitted. The Assistant Inspector General, Registration vide order dated 06.05.2013 accepted the estimate of the Sub-Registrar

and reiterated the demand raised by the latter.

6. The petitioner submits that the land was classified as agricultural land and it was not open for the District Sub-Registrar to make his own classifications. Furthermore, the value of the land was admittedly not lower than the value estimated in the valuation register and as such he ought to have registered the sale deed first and then referred the matter to Assistant Inspector General, Registration. The Assistant Inspector General, Registration should have assured that the Circle Officer submitted his report.

7. The State has justified the impugned action. According to the State, the petitioner should have resorted to remedy of appeal under Clause 4 of the Act, 1992 and has raised issue of maintainability, which I would consider first.

Sub-Section 4 of Section 47 (A) of the Act states that any person aggrieved by an order of Collector under Sub-Section 3 of Section 47 (A) of the Act, may appeal to the Commissioner of the Administrative Division.

8. I find that the impugned order passed by the Assistant Inspector General, Registration would not fall under Sub-Section 3 of Section 47A, as the provision comes into play, only when a document has been registered and the Collector takes

suo motu action against under valuation of the instrument, which is not the situation in the instant case. Since the document was not registered, the case would not fall under Sub-Section 3 of Section 47 of the Act, and as such no appeal would lie to the Commissioner. The plea of maintainability is accordingly rejected.

9. Now coming back to the merit of the case, I find that the Assistant Inspector General, Registration has passed the impugned order solely relying upon the estimate prepared by the District Sub-Registrar. In my view, the Assistant Inspector General, Registration should have called for a report and after hearing the objections of the petitioner could have proceeded to decide the matter in accordance with law.

10. In the instant case, the Circle Officer despite being directed did not submit his report. The authority ought to have taken suitable actions against him and could have directed any other official to make the assessment, which has not been done.

11. As such, I set aside the order of the Assistant Inspector General, registration and remit the matter to him/her for fresh consideration. It would be open for the petitioner to take all his pleas available under the law before the Assistant Inspector General, Registration.

14. The writ application stands disposed of.

(Samarendra Pratap Singh, J.)

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