IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10856 of 1997

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Santosh Kumar Bubna s/o Late Giridhari Prasad Bubna, R/o Jhanjhihat Bazar town P.S. Pupari, District Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar.
2. 2.Collector cum-District Registrar, Sitamarhi.
3. The Sub-Registrar, Pupari District Sitamarhi.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. UMA KANT TIWARY

For the Respondent/s : Mr. (GP1)

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 19-02-2015

Shivaji Pandey, J No one appears either on behalf of petitioner or on behalf of State. The case is being disposed of on the basis of materials available on the record.

In the present case, petitioner is challenging the letter dated 4th August 1997 (Annexure-2), letter dated 22nd September 1997 and letter dated 28th October 1997 issued by the Sub-Registrar, respondent no.3 whereby and whereunder he has directed the petitioner to deposit the stamp duty of Rs.50,410/- and also the registration fee of Rs.24,000/- .

The petitioner has stated that the deed of gift dated 31st January 1996 in the name of Governor of Bihar duly signed by the Anchal Adhikari, Pupari. As stated the gift was made in favour of Governor of Bihar for the purpose of establishment of Eye Hospital for the public. The Hospital was under the management and control of Azad Kendra, Janakpur Road claiming to be non-profitable Society.

At the time of registration, exemption was granted from paying stamp duty but later on after perusal of the deed of gift and other attending circumstances, it was found that the said Hospital was under the control of group, namely, Azad Yuvak Kendra, Janakpur Road, Pupari (an NGO).

On proper scrutiny of the documents, it was found that the land was transferred in favour of Sri Giridhari Prtasad Bubna Eye Hospital and Research Centre, Pupari, which is managed, supervised and under control of the Office bearer of the Executive Committee of the aforesaid trust which contains two family members of the donor. In such view of the matter, after due deliberation it was recorded that the petitioner was not entitled to exemption from payment of stamp duty as it was found that the Eye Hospital and Research Centre was purely a private institution.

There was a correspondence in between the petitioner and the Sub-registrar with respect to the payment of stamp duty, always the petitioner has taken a plea that the land was given to the Hon’ble Governor of Bihar which requires exemption from paying the stamp duty and that was ultimately rejected.

When the petitioner failed to pay the stamp duty, the Collector, Sitamarhi vide letter dated 19th November 1997 addressed to the petitioner informing that if the stamp was not paid within 90 days, in that circumstance, a certificate proceeding under the Bihar Demand Recovery Act would be initiated. This Court, vide order dated 10th February 1998 the Court has granted interim relief by prohibiting the State authorities for realizing the aforesaid amount.

It appears from the counter affidavit, the deed of gift in reality endowed to private body, though the cover-up has been given that the land has been transferred to the Hon’ble Governor of Bihar after proper examination of the deed and the attending circumstances shows that the land was transferred to the private institution i.e. in favour of Azad Yuvak Kendra Eye Hospital and it is being managed by the private persons and not under the control of the

Government. Though certain authorities of the Government are also Members of the Managing Committee it does not make establishment of Government.

In this view of the matter, this Court is not inclined to accept the plea of the petitioner for getting exemption of the aforesaid amount.

Accordingly, this petition is dismissed and the interim order passed by this Court dated 10th February 1998 is hereby vacated and the respondents will be at liberty to realize the stamp duty in accordance with law.

(Shivaji Pandey, J)

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