

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9608 of 2014

Ritesh Kumar @ Ritesh Kumar Agarwal, son of Govind Kumar Agrawal, resident of Village- Salguri, P.S.- Thakurganj, District- Kishanganj

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Department of Revenue and Land Reforms, Old Secretariat, Patna
2. The Collector-cum-District Magistrate, Kishanganj, District- Kishanganj
3. The Sub-Divisional Officer, Kishanganj, District- Kishanganj
4. The Circle Officer, Thakurganj, District- Kishanganj

.... Respondents

Appearance :

For the Petitioner : Mr. Bimal Kumar,
Mr. Birendra Kumar, Advocates
For the State : Mr. Devendra Kumar Sinha, A.A.G. 2

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 03-04-2015

Heard learned counsel for the petitioner and the state.

It is jointly submitted at the Bar that that identical issue has already been taken up and decided by a coordinate Bench of this Court in C.W.J.C. No. 328 of 2014 and another analogous matters and as such this case can be disposed of in terms of the aforesaid order.

A learned Single Judge of this Court, in the aforesaid case has held that merely fixation of market value under the Indian Stamp Act, 1899 would not be sufficient for charging conversion fee and penalty unless that is notified and published in gazette. Since the legislative mandate is that the charging of fee can be made only after due notification in official gazette, such demand of penalty and conversion fee imposed by the impugned notification, are illegal and liable to be set aside.

The argument advanced on behalf of the State that, there would be no need of publication of such fixation of market value in official gazette as such fixation by Collector under Indian Stamp Act, 1899 would be sufficient, has been dispelled in the aforesaid decision for the reason that the word 'notification' has been used in the concerned statute and the notification as defined under Section 4(36) of the Bihar and Orissa General Clauses Act 1917 would mean 'a notification in the Gazette.

This Court is in full agreement with the views expressed by the learned Single Judge in the aforesaid case.

Accordingly, this writ petition, admittedly also being on identical issues, stands allowed in terms of the aforesaid judgment and, as a consequence, the demand of conversion fee and penalty contained in Annexures 5 and 6 stands quashed.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

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