

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3288 of 2015

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Shashi Kant Tiwari son of Sri Narayan Tiwari resident of Bhelaguri, P.O. - B.B. Bharatpur, P.S. Shukhani District - Kishanganj.

.... Petitioner

Versus

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

.... Respondents

with

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Civil Writ Jurisdiction Case No. 3300 of 2015

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Kedar Nath Prasad Son of Late Ram Chandra Prasad resident of Sabodangi, P.O. B.B. Bharatpur, P.S. Shukhani, District - Kishanganj

.... Petitioner

Versus

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

.... Respondents

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Appearance :

(In CWJC No. 3288 of 2015)

For the Petitioner : M/s Ramesh Kumar Agrawal, Advocate
For the State : M/s KINKAR KUMAR, SC 27 and
Sushant Praveer, AC to SC 27

(In CWJC No. 3300 of 2015)

For the Petitioner : Mr. Ramesh Kumar Agrawal
For the State : Mr. Nalin ViloChan Tiwary, AC to SC 28

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 09-03-2015

Heard learned counsel for the petitioners and the state.

It is 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 these cases can be disposed of in terms of the aforesaid order, a copy of which has been produced by learned counsel for the petitioners at the time of hearing.

It appears from the order that a learned Single Judge of this Court has held that merely fixation of market value under the Indian Stamp Act, 1899 would not be sufficient for charging 10 per cent of the market value unless that is notified officially. 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 stands a 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 agreement with the views expressed by the learned Single Judge in the aforesaid case.

Accordingly, these writ petitions, admittedly also being on identical issues, stand allowed in terms of the aforesaid judgment and, as a consequence, the demand of penalty and conversion fee contained in Annexures 3 and 4 in both the writ petitions have to be set aside.

Accordingly, the impugned notifications contained in Annexures 3 and 4 of both writ applications are quashed and set aside.

(Dr. Ravi Ranjan, J)

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