

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5747 of 2014

Chandeshwar Prasad Son Of Late Baijnath Prasad, Permanent Resident Of Village Belaguri, P.O. B.B. Bharatpur, P.S. Sukhani, District Kishanganj And Presently Residing At Shital Bhawan, Hill Card Road, P.O. And P.S. Siliguri And District-Darjeeling.

.... 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

Civil Writ Jurisdiction Case No. 5901 of 2014

Nagnarayan Prasad @ Jag Narayan Prasad Son Of Late Suraj Prasad Permanent Resident Of Village- Velaguri, P.S. Thakurganj, P.O.- B.B. Bharatpur, District Kishanganj And Presently Residing At Pradhan Nagar, Siliguri, P.S. Pradhan Nagar District- Darjeeling

.... 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

Civil Writ Jurisdiction Case No. 5977 of 2014

Sanat Kumar Gupta Son Of Sri Bijay Kumar Gupta Resident Of Village- Aambari, P.S. Thakurganj, District Kishanganj Through Its Manager Rohit Kumar Gupta, Son Of Sri Bijay Kumar Gupta, Resident Of Burdwan Road, Siliguri, P.O. And P.S. Siliguri And District- Darjeeling

.... 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

Civil Writ Jurisdiction Case No. 6039 of 2014

Surendra Ray Son Of Sri Prabhu Nath Ray Resident Of Bas Bari Rasia, P.O. B.B. Bharatpur, P.S. Powakhali And 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

Civil Writ Jurisdiction Case No. 6302 of 2014

Jogendra Prasad Son Of Sri Uthani Prasad Resident Of Bara Pothia, P.S. Thakurganj And 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

Civil Writ Jurisdiction Case No. 6484 of 2014

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Arun Kumar Prasad Son Of Late Jagnarayan Prasad Resident Of Nawduba, P.O. Thakurganj, P.S. Churli Court, 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. 6513 of 2014

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Raj Kumar Prasad, Son Of Late Raghubir Prasad, Resident Of Salguri, P.O.- B.B. Bharatpur, P.S. Shukhani And 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. 5747 of 2014)

For the Petitioner : M/s Ramesh Kumar Agrawal
Shiv Kumar and Anupa Nand Jha, Advocates

For the State : M/s .Nividita Nirvikar, GA 10 and
M.D.Singh, AC to GA 10

(In CWJC No. 5901 of 2014)

For the Petitioner : M/s Ramesh Kumar Agrawal
Shiv Kumar and Anupa Nand Jha, Advocates

For the State : AC to AAG II

(In CWJC No. 5977 of 2014)

For the Petitioner : M/s Ramesh Kumar Agrawal
Shiv Kumar and Anupa Nand Jha, Advocates

For the State : Mr. M.k. Singh, SC 6

(In CWJC No. 6039 of 2014)

For the Petitioner : M/s Ramesh Kumar Agrawal
Shiv Kumar and Anupa Nand Jha, Advocates

For the State : M/s Jay Prakash Sharma, AC to GP IX
Sanjeev Kumar AC to SC 23

(In CWJC No. 6302 of 2014)

For the Petitioner : M/s Ramesh Kumar Agrawal
Shiv Kumar and Anupa Nand Jha, Advocates

For the State : : Mr. Anshul

(In CWJC No. 6484 of 2014)

For the Petitioner : M/s Ramesh Kumar Agrawal
Shiv Kumar and Anupa Nand Jha, Advocates

For the State : Mr. Avinash Kumar

(In CWJC No. 6513 of 2014)

For the Petitioner : M/s Ramesh Kumar Agrawal
Shiv Kumar and Anupa Nand Jha, Advocates

For the State : Mr. Pandey S Sahay

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 17-03-2015

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 aforesaid decision 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 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 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 7 and 8 in C.W.J.C. Nos. 5747 of 2014 5901 of 2014, 6039 of 2014, 6302 of 2014, 6484 of 2014, 6513 of 2014 and Annexures 6 and 7 C.W.J.C. No. 5977 of 2014 have to be set aside.

Accordingly, the impugned notifications contained in Annexures 7 and 8 in C.W.J.C. Nos. 5747 of 2014 5901 of 2014, 6039 of 2014, 6302 of 2014, 6484 of 2014, 6513 of 2014 and

Annexures 6 and 7 in C.W.J.C. No. 5977 of 2014 are quashed and set aside.

(Dr. Ravi Ranjan, J)

Spd/-

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