IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7554 of 2013

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1. Prashant Anand S/O Sri Shankar Prasad Sah R/O Village- Sonaili, P.O.- Sonaili, P.S.- Kadwa, District- Katihar

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Inspector General, Registration, Bihar, Patna
3. The Assistant Inspector General, Registration Purnia Division, District- Purnia
4. The Registrar, District Registration Office Kathar, District- Katihar
5. The Addl. Registrar, Katihar, District- Katihar
6. The Circle Officer, Kadwa, P.S.-Kadwa, District- Katihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sushant Kumar Das, Advocate
Mr. Krishna Murari Rawat, Advocate
For the Respondent/s : Dr. Anshuman, SC 14
Mr. Kubere Pathak, AC to SC 14
For the Intervenor : Mr. Diwakar Prasad Karn, Advocate

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL ORDER

5 24-08-2015 Learned counsel for the petitioner is permitted to make necessary correction in the second line of paragraph 8 wherein it has been stated that the petitioner is the only son of late Shankar Prasad Sah.

Let the sentence “the petitioner is the only son of late Shankar Prasad Sah” be deleted from second line of paragraph 8 of writ petition.

The petitioner seeks quashing of the order, dated 26.2.2013 (Annexure-5) whereby he has been directed to pay additional stamp to the tune of Rs.2,13,480/- along with 10% fine.

It appears that one Shankar Prasad Sah and his brother transferred some landed properties of Mauza Pelagarh, P.S. Kadwa, District Katihar in favour of the petitioner on 23.11.2012. The District Sub-Registrar, Katihar, respondent No.4 found that the parties fraudulently got registered their properties concealing the nature, use of land, structure and market value to evade making due payment of stamp. The respondent No.4 himself made a spot verification of the land and after due enquiry came to the conclusion that market value of the property is Rs.50,90,000/- and as such after deducting the stamp duty of Rs.91,920.00 already paid, the parties would be liable to pay further stamp duty to the tune of Rs.2,13,480/-. Thereafter, Respondent No.4 referred the matter to Assistant Inspector General (Respondent No.3) for determination of proper market value of the properties and the proper duty payable thereof.

Thereafter, respondent No.3 by order, dated 26.2.2013 directed the petitioner to pay the additional stamp duty to the tune of Rs.2,13,480/- along with 10% fine amounting to Rs.21,348/-. Respondent No.3 while passing the impugned order observed that in spite of affording opportunities on 11.2.2013 and 26.2.2013, the petitioner did not produce any document in support of his case that an appropriate stamp duty was paid at the time of registration.

Being aggrieved, the petitioner has challenged the impugned order on the ground that respondent No.3, the Assistant Inspector General, has no authority to determine the valuation of the land and the stamp duty payable on it and for which the Collector of the district is the appropriate authority under the Registration Act.

I find that Bihar Finance Act, 2008 caused necessary amendment in sub-section (1) of Section 47-A. The amendment empowers the Sub-Registrar that in case it is satisfied that the market value of the property in question has been set forth at the lower rate than the Guide Line Register of estimate minimum value prepared under the rules framed under the provisions of the Act, he/shall shall refer such instrument before registering it to the Collector for determination of the proper market value of such property and the proper duty payable thereof. The proviso further empowers the Sub-Registrar to refer such matter to the Collector, even after registering such instrument for determination of proper market value of the property and the stamp duty payable thereof.

In view of the amendment, the Sub-Registrar even after registration if it finds that the market value of the property was not correctly set forth at the time of registering, he or she can refer the matter to the Collector for determination.

The petitioner has contended that as per the amendment, the matter has to be referred to the Collector of the district and not to Assistant Inspector General.

The submission of the petitioner is to be noted to be rejected as the Assistant Inspector General, Purnea Division has been notified to be the Collector, Katihar within the meaning of Section 2(9) of the Indian Stamp Act, 1899 by departmental notification No.333 dated 26.9.1996 published in Bihar Gazette Extra-ordinary Edition published by the Government of Bihar.

In view of the aforesaid notification, the Assistant Inspector General was empowered to determine the valuation and the stamp duty payable thereof under Bihar Amendment Act, 2008 by amending sub-section (1) of Section 47(A) along with its proviso.

The petitioner next contends that no sufficient notice was granted prior to judging the valuation by respondent No.3. He submits that he was not given sufficient opportunity to pursue his case as on the first date (11.2.2013) fixed in the matter for bringing the evidence, the office was closed. So far as second date i.e. 26.2.2013 is concerned, the contention of the petitioner is that he prayed for time which was disallowed.

Having regard to the facts and circumstances of the case, this Court allows one more indulgence to the petitioner to establish that the land and the properties were correctly valued on the date of registration and stamps were duly paid. The petitioner must appear before Respondent No.3 within three weeks from today along with a copy of this order. Respondent No.3 would fix a date for the petitioner to produce his document or evidence in the matter. Thereafter, respondent No.3 would proceed to dispose of the matter in accordance with law.

Till final adjudication of the matter, the impugned order is kept in abeyance.

With the aforesaid observations and directions, this writ application stands disposed of.

(Samarendra Pratap Singh, J)

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