IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1543 of 2012
IN
Civil Writ Jurisdiction Case No. 2874 of 2012

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Sanjay Kumar @ Sanjay Singh @ Sanjay Kumar Rai son of Dr. Ramanand Rai, Resident of Mohalla Guha Villa Adampur, Swami Vivekanand Path, P.S. Adampur District Bhagalpur.

.... Appellant

Versus

1. The State of Bihar
2. The Commissioner Bhagalpur Division, Bhagalpur
3. The Collector, Bhagalpur
4. The Sub-Registrar, Registry Office, Bhagalpur
5. The Inspector Registration, Registry Office, Bhagalpur

.... Respondents

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Appearance :
For the Appellant/s : Mr. Bimlendu Mishra, Advocate
For the State : Mr. Mohan Kumar Singh, AC to SC-5

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
And
HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)
Date: 21-08-2015

Heard learned counsel for the appellant and learned counsel for the State and with their consent this appeal is being disposed of at this stage itself.

2. The appellant was the writ petitioner, who is aggrieved by the order of the District Magistrate-cum-Collector, Bhagalpur, acting as District Registrar of Documents, ordering payment of deficit stamp duty on an instrument to sell which was presented for registration by the writ petitioner. The deficit stamp duty, if at all, is on the basis of calculation of market value of the property being conveyed on the day when the instrument was produced for registration as against the consideration as disclosed in the deed of conveyance on which stamp duty was paid by the writ petitioner.

3. The writ petitioner had entered into an agreement for sale of the property in question in the year 1990, when the vendor did not agree to execute the sale deed in spite of having received substantial part of agreed consideration. A suit for specific performance was filed. The suit was ultimately decreed in favour of the writ petitioner. Before the writ petitioner, could execute the sale deed, as per agreement as made in the year 1990, the consideration was about Rs. 7 Lacs, when the deed was now drawn up in the year 2005. Consistent with the agreement and consistent with the civil court decree, the consideration was shown as Rs. 7 Lacs and duty was paid thereon. Thus, in these 15 years i.e. 1990 to 2005, the value of property had sky rocketed. The whole dispute was whether the stamp duty is to be paid on the value of property on the date when the instrument is being sought to be registered or the consideration as mentioned in the document with respect to the agreement entered into 15 years back.

4. In our view, law is settled. The valuation date is the date when the document is presented for registration and not any other date. Therefore, there may be like in the present case a difference between consideration and valuation, the consideration would not change because parties were bound by the agreement and the decree of the civil court, but for the purposes of registration, the valuation would change. The stamp duty and other charges are to be paid on the basis of valuation as on the date of registration.

5. Thus, in our view, the Collector was not wrong in seeking to recover deficit stamp duty and other charges based on the market value.

6. However, it is always open to a citizen to show that market value as being determined by the Collector based on the circle valuation, report may not necessarily be the market value of the property. Thus, valuations are only a guideline under the Bihar Stamp (Prevention of Under Valuation of Instruments) Rules,

1995. The market value is a value which is fixed as between a ready buyer and a winning seller. The circle rates are only guideline. Even in any area there may be several considerations which could vary the valuation. It is open to the citizen to show that the valuation set forth is the correct valuation for the present when document is presented for registration.

7. In principle, we did not find any error in the order of the Collector nor any error of jurisdiction as to his powers under Section 47A of the Indian Stamp Act, 1899, read with Bihar Stamp (Prevention of Under Valuation of Instruments) Rules, 1995.

8. Before parting, we may notice one other aspect which is not clear from the order of Collector, no calculation is disclosed in the orders impugned either of the Collector or the Divisional Commissioner. It is imperative upon the authorities who are acting as Taxing Authority to disclose the calculations and the basis and that too in terms, intelligible to an ordinary citizen. From the order of the Collector and the Divisional Commissioner, it is not clear whether any penalty has been imposed or not. We are of the firm view that in view of the nature of dispute, it is not a case in which any penalty can, at all, be ordered to be imposed. In view of penalty having been imposed, the same would be deleted.

9. With the aforesaid observation and direction, this Letters Patent Appeal is, accordingly, disposed of.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajeev/A.F.R.

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