IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.309 of 2014

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1. Triveni Sah S/O Late Sadhu Sah Resident of Village- Pandey Dih, P.O- Kumhaila, P.S- Charpokhari, District- Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Inspector General, Registration, Government of Bihar, Patna.
2. The Inspector General, Registration, Government of Bihar, Patna.
3. The Inspector of Registration Offices, Patna Division, Patna.
4. The Collector, Bhojpur at Ara.
5. The District Registrar, Bhojpur at Ara.
6. The District Sub- Registrar, Bhojpur at Ara.
7. The Circle Officer, Chapokhari, District- Bhojpur.
8. Uma Shankar Sharma S/O Late Lal Mohar Sharma Resident Of Village- Pandeydih, P.O- Kumhaila, P.S- Charpokhari, District- Bhojpur.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Bibhakar Tiwary, Adv.
For the Respondent/s : Mr. A.K. Sinha, GA.9

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 15-05-2015 Heard Mr. Bibhakar Tiwari, learned counsel for the petitioner and Mr. Pawan Kumar, A.C. to G.A.9 for the State.

The petitioner is aggrieved by the order dated 26.12.2012 passed by the Inspector of Registration offices as Collector under the Indian Stamp Act, 1899 (hereinafter referred to as 'the Act') in case No. 1 of 2012-13 whereby the petitioner has been directed to deposit the deficit stamp duty of Rs. 61,500/-.

Facts of the case briefly stated is that a sale deed in respect of a piece of land admeasuring 2 decimals was executed by one Rama Shankar Sharma who happens to be the own brother of the private respondent in favour of the petitioner bearing Survey Khata No. 57 Khesra No. 532 situated in village-Charpokhari Thana No. 248 in the District of Bhojpur. The sale deed dated 2.1.2012 was registered and a copy of the same is present at Annexure-1. It is thereafter that a complaint was filed by the private respondent charging the petitioner of payment of deficit stamp duty on grounds that the land was not 'parti' rather it had a constructed structure situated therein. Though the copy of such complaint was never served on the petitioner which was addressed to the Collector who in turn referred the matter to the District Public Grievance Cell and who returned the matter to the District Sub Registrar for enquiry. The District Sub Registrar vide letter dated 7.4.2012 informed the Incharge Officer, District Public Grievance Cell, Bhojpur that a report has been called from the Circle Officer and would be forwarded on receipt. A notice was also issued to the petitioner on 8.5.2012 under Rule 9(1) of the Bihar Stamp (Prevention of Undervaluation of Instruments) Rules, 1995, a copy of which is Annexure-4 requiring him to substantiate his submission.

A reply was filed and the matter was referred under Section 47A of 'the Act' before the Inspector of Registration Offices, Patna Division by the District Sub Registrar, Bhojpur vide letter dated 9.5.2012. The reference under Form 1 which is enclosure to the letter of the Sub Registrar dated 9.5.2012 is placed at Annexure-5. Paragraph 11 of Form 1 manifests that as on 9.5.2012 the Sub Registrar reported that he had carried out an inspection and found that a house was constructed on 1700 sq.ft. of the purchased land which according to him, was valued at Rs. 11,25,000/-. It was reported that the petitioner by misrepresenting the status of the property by terming it to be a vacant land had caused loss of revenue of stamp duty to the State. A proceeding ensued giving rise to Case No. 1 of 2012-13 and the Inspector of Registration Offices, Patna vide order passed on 26.12.2012 found the complaint proved and has required the petitioner to deposit the deficit stamp duty of Rs. 61,500/- failing which the same would be recovered through a public demand along with interest quantified at 5% per month. The petitioner being aggrieved is before this Court.

The petitioner filed for review of the order and upon which a report was called for vide order passed on 4.2.2013 but ultimately on 18.7.2013 the review was dismissed upholding the order passed on 26.12.2012 and being aggrieved the petitioner is before this Court.

I have heard learned counsel for the petitioner and learned counsel for the State.

A counter affidavit has been filed contesting the position and supporting the impugned order.

The only issue which requires consideration is whether at the time of purchase of land in question by sale deed dated 2.1.2012 the land was vacant or had any structure built thereon. Although it is the stand of the respondent statutory authorities that a construction existed but the petitioner contests the position.

Learned counsel for the State to support such contention has also referred to a photograph which has been enclosed in the counter affidavit and though Mr. Tiwari has endeavoured to question the same but considering the fact that the proceeding was initiated by the Registration authorities within 3 months of the registration of the sale deed on 2.1.2012, it is difficult for this Court to believe that such a structure could have been built within three months of the execution of the sale deed or that even when the complaint had been made by the private respondent which resulted in a proceedings under Section 47A of the Act, yet the petitioner went ahead to construct the house. The very report of the District Sub Registrar as can be found in Form 1 of the rules enclosed with Annexure-5 manifests that as early as 9.5.2012 their already existed a fully constructed building over an area of 1700 sq. ft.

Although the petitioner complains that the copy of the enquiry report was not handed over to him but the very fact that the Sub Registrar has reported a fully constructed double storeyed house as early as on 9.5.2012 i.e. within 4 months of execution of the sale deed as reflected from Annexure-C to the counter affidavit, I find no infirmity in the order of the Inspector of Registration in requiring the petitioner to pay the deficit stamp duty on grounds of not properly reporting the status of the land purchased by him requiring any indulgence or interference in the impugned order.

However in so far as the issue of levy of interest @ 5% per month on the deficit stamp duty is concerned, I am of the opinion that since the petitioner was bonafidely contesting the issue before different forums and the order impugned dated 26.12.2012 passed by Inspector of Registration grants him 60 days time for deposit of deficit stamp duty, hence the petitioner is directed to deposit the deficit stamp duty without any interest within 60 days from today failing which he would be liable to payment of interest thereon @ 5% per month as directed in the impugned order w.e.f the date of the impugned order i.e 26.12.2012.

The writ petition is disposed of accordingly.

Bibhash/-

(Jyoti Saran, J)

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