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IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20719 of 2012

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Nagendra Sah, son of Bhola Sah, resident of Village- Mithanpura, P.O.- Kataharia Mehsi, P.S.- Mehsi, District- East Champaran.... .... Petitioner

Versus

1. The State of Bihar through the Collector, Motihari, East Champaran
2. Stamp Deputy Collector, Motihari, East Champaran
3. Sub Registrar, Chakia Sub-Registry Office, East Champaran
4. Ramlal Sah, son of Late Jai Kishun Sah, resident of Village- Mithanpura, P.O.- Kataharia Mehsi, P.S.- Mehshi, District- East Champaran. .... Respondents

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Appearance :
For the Petitioner/s : Mr. Sunil Kumar No. III
For the Respondent/s : Mr. Anil Kr Uapdhyay, SC-20

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

6 21-09-2015 Heard learned counsel for the petitioner and the State.

2. The petitioner seeks quashing of the order dated 28.08.2012, passed by respondent no.1 in Misc. Case No. 14 of 2006, affirming the order dated 31.05.2006, passed by respondent no.2 in Case no. 2715 of 1997-98.

3. The case of the petitioner in short is that a sale deed was presented for registration in the year 1998 in respect of land measuring 2 Kathas for consideration money of Rs.15,000/-. In January, 1998, the sale deed was executed on Non-judicial stamp of Rs. 2/- only. It appears that the Sub-Registrar initiated a proceeding giving rise to Case No. 2715 of 1997-98 under Section 38 (2) of Bihar Stamp Act. The notice was issued to the petitioner. The petitioner appeared pursuant to notice.

4. The Sub-Registrar under Section 40(b) of the Act

levied 10 times fine on the unpaid duty of Rs.1573/- (1575-2), which came to Rs.15,730/- along with original amount of Rs.1573/- totaling 17,303/-. It appears from the order of the Sub-Registrar that the petitioner expressed his desire to pay the said amount. In view of the willingness of the petitioner to pay the entire amount of Rs.17,303/- the Sub-Registrar disposed of the proceeding accordingly. Inexplicably, the petitioner filed appeal against the said order, which too was rejected.

5. The petitioner has assailed the order passed by the respondents Sub-Registrar and Registrar in this Court.

6. The petitioner submits that as stamps were not available in the year 1998, the sale deed was generally executed on non-judicial stamp of Rs.2/- only. He submits that he was always willing to pay the stamp duty. However, I do not find any material on record to come to a conclusion that the petitioner ever purchased the balance stamps and made an endeavour to tender them in the registration office. Nothing had stopped the petitioner from making the same. Even though the proceeding was initiated in the year 1998, still the petitioner did not pay the unpaid stamp duty.

7. I find that in the year 2006, the petitioner appeared in the proceeding and expressed his willingness to pay unpaid stamp duty along with fine total Rs.17,303/-. Once the petitioner

agreed before the Sub-Registrar that he is willing to pay the fine amount i.e. Rs.17,303/-, it is not open for him to assail the order on merit. The petitioner has nowhere stated that he never expressed his willingness to pay the entire fine amount, as levied by the Sub-Registrar.

8. As the order was passed with consent of the petitioner, it is difficult to find fault with the two orders. In the result, I do not find any merit in this application. The petitioner should deposit the fine amount of Rs.15,730/- + 1573/- total Rs.17,303/- for release of his registered document.

9. This application is, accordingly, dismissed.

(Samarendra Pratap Singh, J.)

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