IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11326 of 2013

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Amitesh Kumar Son Of Late Nagendra Kumar Prasad Resident Of Mohalla- Jakkanpur, Near Shiv Mandir, P.S.- Jakkanpur, District- Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Urban Development Department, Government Of Bihar, Patna
3. The Municipal Commissioner, Patna Municipal Corporation, Patna
4. The Collector, Patna
5. Estate Officer (Planning And Development), Patna Municipal Corporation, Patna
6. The Sub Registrar, District Registration Office, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satish Chandra Jha
For the Respondent/s : Mr. Prasoon Sinha
AC to GP 6

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 15-02-2016

Heard Sri Satish Chandra Jha, learned counsel for the petitioner, learned AC to GP No. 6 who has appeared on behalf of the respondent no. 1, 2 , 4 and 6 and Sri Prasoon Sinha, learned counsel for the respondent no. 3 and 5 /Patna Municipal Corporation.

The petitioner, invoking writ jurisdiction of this court under Article 226 of the Constitution of India has prayed for the following reliefs:-

> ***"a. To direct the respondents to register the lease deed dated 17.02.2009 of Plot no. B-85 , situated at Transport Nagar, Patna in favour of the petitioner, as petitioner had already deposited all cost of the plot, as also the registration cost of the said lease deed to***

the tune of Rs. 65500/- and said lease deed was submitted in the office of Municipal Commissioner on 13.12.2005 itself, however after inordinate delay same was executed in favour of the petitioner on 17.12.2009 and where after same was handed over to the petitioner for its registration, accordingly petitioner presented the said lease deed before Sub Registrar, Patna for its registration, but same was returned to the petitioner on the ground that validity of stamp is one year only and lease deed could not be registered, without being laches on the part of the petitioner.

b. To direct the respondents particularly Respondent no. 2 to make arrangement, proper fresh stamp for registration of lease deed in favour of the petitioner for which petitioner had already purchased stamp on 28.10.2005 and after completing all legal formalities including typing, same was submitted in the office of Respondent no. 2 on 13.12.2005 for his permission for registration, accordingly after inordinate delay permission was granted vide letter no. 332 dated 19.02.2009 (Annexure - 7) and Sub Registrar, Patna was requested to register the lease deed which was executed in favour of the petitioner, however due to delay, same could not be registered in terms of amendment made in Section 50 of the Indian Stamp Act which postulates "No instruments shall be executed on any stamp paper which has remained unutilized for a period exceeding one year from the date of its purchase", accordingly the original lease deed was submitted in the office of Respondent no. 2 on 28.02.2009 and since then respondent no. 2 is sitting tight over the matter, though there was / is no laches on the part of the petitioner.

c. To direct the respondents to return

the excess amount to the tune of Rs. 72950.45 of the petitioner for which petitioner has filed several representations and has also approached the concerned authority time without number, but no heeds is being iv given in this regard.

d. That the Hon'ble Court may be pleased to grant any other relief or reliefs to the petitioner, as this Hon'ble Court may thinks it proper in the present facts and circumstances of this case."

Short fact of the case is that the petitioner was allotted a land bearing plot no. B-85 measuring 3000 Sq. Ft. situated at Transport Nagar, Patna for construction of godown by the Patna Regional Development Authority (now Patna Municipal Corporation) asking the petitioner to deposit value of the land. Since some delay had occurred on the amount i.e. Rs. 7,77,600/- that was the consideration money, the petitioner also paid interest to the tune of Rs. 89,140/- as per the terms and conditions. The petitioner thereafter prepared a document for registration of the same. In the meanwhile, possession of the land was already handed over to the petitioner. However, one way or the other, despite the fact that petitioner presented the document before the Patna Regional Development Authority long back in the year 2005 and thereafter on several occasions request was made by the petitioner for completion of documentation so that the petitioner may get the document registered, same was not done and same was delayed. After much persuasion the same was returned to the petitioner. It was returned on 17.12.2009 whereas for the purposes of execution of registration the petitioner had deposited the document before the Municipal Commissioner on 13.12.2005 whereafter while the petitioner presented the document for its registration before the Registrar, same was returned on the plea that the rate of registration had already been enhanced and it was insufficient for registration due to amendment in the Act. A plea has been taken that once the petitioner after obtaining the stamp paper and getting it typed presented before the authority concerned/ respondent no. 3 and 5, it was duty on the part of respondent to immediately after executing the same return the same to the petitioner but same was not done and delay has occurred which was not on the part of the petitioner. A plea has been taken that since delay has occurred on the part of the respondent /Patna Municipal Corporation the petitioner may not be saddled with the enhanced rate for that very purpose. The respondent /Patna Municipal Corporation is required to compensate the petitioner. Meaning thereby that the amount of enhanced rate is to be paid by the Pant Municipal Corporation.

In this case a counter affidavit has been filed on behalf of the respondent /Patna Municipal Corporation. In the counter affidavit respondent/ Patna Municipal Corporation has tried to substantiate that delay was not on the part of the Patna Municipal Corporation but due to non compliance of certain conditions on the part of the petitioner delay had occurred. However, on record no such plausible materials has been brought to satisfy the court. No explanation has been given as to under what circumstances from 28.10.2005 till 19.2.2009 the document was kept in the office of the Patna Municipal Corporation. In such circumstances since inaction has been done by the respondent/ Patna Municipal Corporation certainly the petitioner may not be saddled for payment of enhanced rate which was solely the responsibility of the Patna Municipal Corporation. Once the document was prepared by the petitioner after completing all the formalities it was required to be returned to the petitioner forthwith so that petitioner would have presented the document before the Registrar for its registration but it was kept in the office of the Patna Municipal Corporation up to the month of December 2009 and as such, the respondent /Patna Municipal Corporation is required to compensate the petitioner for the enhanced rate which was enhanced after the presentation of the document by the petitioner to the Patna Municipal Corporation. Meaning thereby, that the respondent /Patna Municipal Corporation is required to pay the enhanced rate of registration cost. Accordingly, the writ petition is allowed with a direction to respondent no. 3 and 5 to calculate the enhanced rate of registration of the said document and pay the said amount so that the petitioner may get its document registered. All the formalities must be completed within a period of eight weeks from the date of receipt / production of a copy of this order.

Learned counsel for the petitioner submits that liberty may be granted to the petitioner to take appropriate steps regarding refund of the amount of stamp over which the document was typed for an amount of Rs. 65,500/- .

It may be done in accordance with law.

The writ petition stands allowed.

(Rakesh Kumar, J)

Praful/-

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