

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15249 of 2013

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Smt. Kanti Devi, Wife Of Sri Chandrika Singh, Resident Of Village- Baugawn,
Police Station- Fatehpur, District- Gaya

.... Petitioner

Versus

1. The State Of Bihar through The Principal Secretary Revenue And Land Reforms Department, Bihar, Patna
2. The Deputy Secretary, Department Of Revenue And Land Reforms, Bihar, Patna
3. The Divisional Commissioner, Magadh Division, Gaya
4. The Collector Cum District-Magistrate, Gaya
5. The Deputy Collector (Stamp Refund), District- Gaya

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Binod Kumar, Advocate

For the Respondent/s : Mr. P.K. VERMA, AAG-5

Mr. Saroj Kumar Sharma, AC to AAG-5

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 21-06-2016

Heard parties.

The petitioner is aggrieved by Annexure-6 which is an order dated 21.12.2012 passed by the Additional Collector, Gaya holding that since the petitioner did not file an application for refund of amount of Rs. 1,07,030/- for return of non-judicial stamp of that value within a period of one year, he is not entitled for the said refund.

It is not the first time that the petitioner has approached this Court for the said purpose as he has approached earlier occasion by filing CWJC No.10839/2012 which was disposed of vide order dated 12.04.2013 directing the Stamp Deputy Collector for taking a



decision for refund of the value of stamp. However, it appears that the impugned order was passed even before the aforesaid order could be passed by this Court and obviously, the same was not within the knowledge of the petitioner because neither the State Counsel nor the petitioner had disclosed the aforesaid fact before the learned Single Judge at the time of passing of the order.

The petitioner's claim is that such application for refund was filed on 14.02.2006 whereas the claim of State authorities is that the same was filed on 1.09.2006, i.e., after the delay of about seven months. A counter affidavit has been filed appending several documents including opinion of the Government Pleader indicating that even the petitioner might have been involved in a fraud by saying that the application was filed on 14.02.2006 but surprisingly one of the document, which has been appended as Annexure-K and is a report by the Gaya Bar Association on being asked by the Collector, discloses that the seal on the application put by the Bar Association is dated 14.02.2006 and the fee was also paid through Coupon No.4822 dated 14.02.2006. Therefore, obviously two versions were there. The Additional Collector while passing the impugned order has simply stated that petition was time barred, i.e., having been filed after one year but it has not been disclosed as to how he has come to such conclusion and when were the stamps purchased and the date on



which application was allegedly filed by the petitioner even according to the State Authorities. He has not discussed the stand of the petitioner and has merely stated that since the petitioner did not follow the procedure and had approached the Court after much delay, the amount cannot be refunded. He has also stated that he is passing order in view of the order dated 21.12.2012 passed by the Collector, Gaya which is available in File No.XX-24 (4)/09-12.

Records have been produced before this Court. From perusal of the aforesaid records, it appears that the Additional Collector, who was required to pass the order by applying his independent mind, had discussed the same with the Collector and after the Collector has approved the final result, he has simply passed the order. In my considered opinion, such type of order cannot be sustained in law. Assuming that the stand of the State authorities was correct even then that was required to be discussed and dealt with by the statutory authority while taking a final decision in the matter otherwise it has to be held that the order suffers from vice of arbitrariness. If it was found that fraud has been committed by the petitioner, as was alleged at the time of hearing on the strength of the document which has been appended in the counter affidavit, that too was required to be discussed otherwise the appending documents with the counter affidavit which were never considered by the authority

while passing the order would be of no value.

Accordingly, the order impugned is quashed and set aside. The matter is remitted back to the Additional Collector, Gaya to grant reasonable opportunity to the petitioner and pass a reasoned and speaking order considering his grounds also within a period of three months from the date of receipt/production of a copy of this order.

This writ application stands allowed to the aforesaid extent.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	05.09.2016
Transmission Date	N.A.