

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18896 of 2016

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1. Bhanu Pratap Singh S/o late Jagdish Prasad Singh Resident of Village-Noniatari, P.O.- Simultala, P.S.- Chandramani, District - Jamui. At Present resident of S. Lal Campus, Barari Road, Tilkamanjhi, District Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary Govt. of Bihar, Registration Department, New Secretariat, Bailey Road, Patna.
2. The Inspector General of Registration, Govt. of Bihar, Patna, New Secretariat, Baily Road Patna.
3. The Assistant Inspector General of Registration, Bhagalpur Division, Bhagalpur.
4. The District Registrar Cum Collector, Bhagalpur.
5. The District Sub-Registrar, Bhagalpur, Registry Office Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Dubey

For the State : Mr. Manish Kumar A.C. to AAG-6

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

3 31-10-2017 Heard learned counsel for the petitioner and learned counsel appearing on behalf of the State.

The petitioner seeks a writ in the nature of certiorari for quashing the order dated 26.08.2015 (Annexure-8) issued vide Memo No. 354 dated 26.08.2015 by the Respondent No. 3 by which the petitioner has been directed to pay an additional registration fee according to the market value of the land and also make payment of fine of an additional 10% in accordance with the provisions of Section 47(A) of the Indian Registration Act. The petitioner further seeks to place a challenge to in Memo No. 944 dated 30.09.2015 (Annexure-10) by which the petitioner has been directed to deposit the registration fee/ stamp within fifteen days



from the receipt of the notice, failing which a certificate case would be initiated against him. A further direction has also been sought from this Court to the Respondent Authority to give the registered lease deed dated 16.01.2015 to the petitioner, in view of the fact that the Registration fee has already been paid as per the valuation mentioned in the agreement dated 22.02.2010.

Learned counsel for the petitioner submits that the action of the Registration Authority in passing the impugned orders is illegal, arbitrary and against the settled principle of law inasmuch as the registration of such lands for which the Housing Board has executed a lease has to be made in accordance with the agreement amount as fixed by the Housing Board.

In support of such contention, the petitioner has brought to the notice of this Court Annexure-9 which is a reply in response to an R.T.I. made by the petitioner from the Registering Authority, Patna issued vide letter No. 1965 dated 18.09.2015. In this case, in the information provide by the Public Information Officer-cum-District Sub-Registrar, Patna, it has been clearly stated that in matters relating to lease deeds to be executed between the Housing Board and the parties, the person is required to furnish the stamps and Court fee as per the agreement value of the land as stated in the deed by the Housing Board.



In view of such facts and circumstances, the petitioner was required to furnish stamp duty only to the said extent and not beyond it.

In the counter affidavit filed by the State, it has been stated that in view of the Memo No. 1145 dated 14.05.2013 in accordance with the Section 47(A) and the provisions of Rule framed hereunder, the Assistant Inspector General, Registration, Bhagalpur Division, Bhagalpur has been given the authority to pass orders in this regard.

Be that as it may, the petitioner has not raised any dispute regarding the power as envisaged by the Gazette Notification to the A.I.G.s (Registration) of any districts. As such, the matter need not be dealt into for the purposes of deciding this case. What only remains was as to whether the petitioner was required to pay any further Court fee as has been stated by the Assistant Inspector General, Registration, Bhagalpur Division, Bhagalpur.

In the considered opinion of this Court, the matter stands resolved by the letter issued by the District Information Officer/Sub-Registrar, Patna which clearly indicates that the petitioner is required to pay stamp duty and the agreement value as fixed in the lease deed and nothing beyond that. Thus, the



impugned orders do not stand the test of reasonableness and must fail.

The order dated 26.08.2015 as contained in Annexure -8 issued vide Memo No. 354 and order dated 30.09.2015 as contained in Annexure-10 issued vide Memo No. 944 dated 30.09.2015 are thus quashed.

The writ application is allowed.

The authorities are directed proceed further and hand over the lease-deed in favour of the petitioner within a period of eight weeks from the date of receipt/production of a copy of this order.

No costs.

(Anjana Mishra, J)

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