

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4333 of 2016

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Hari Shankar Sharma Son of late Radhey Shyam Sharma Resident of Naya Dharamshala Road, Narkatiaganj, P.S. Sikarpur, District West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Registration Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Registration, Bihar, Patna.
3. The Inspector General Registration, Government of Bihar, Patna.
4. The Collector cum District Registrar West Champaran Bettiah.
5. The District Sub Registrar West Champaran Bettiah.
6. The Sub Registrar Bagaha, District West Champaran.
7. The Sub Registrar, Shikarpur District West Champaran.

.... Respondent/s

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With

Civil Writ Jurisdiction Case No.3364 of 2016

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Manoj Tiwari, S/o- Sri Akhileshwar Tiwari, resident of Village & Post Office- Padarkhap, P.S.- Bhairoganj, at present practicing lawyer at Bettiah Civil Court, Building No. 2, District- West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Registration, Excise and Prohibition, New Secretariat, Patna Bihar.
2. The District Magistrate cum Collector, District West Champaran.
3. The District Sub- Registrar, District West Champaran at Bettiah.
4. The District Valuation Committee through its Secretary.
5. The Circle Officer, Bettiah Circle (1) District West Champaran.
6. The Circle Officer, Bettiah Circle (2) District West Champaran.

.... Respondent/s

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Appearance:

(In CWJC No.4333 of 2016)

For the Petitioner/s : Mr. Anil Kumar Jha, Sr. Advocate.

For the Respondent/s : Mr. Himanshu Kumar Akela, AC to AAG 2.

(In CWJC No.3364 of 2016)

For the Petitioner/s : Mr. Md. Aslam Ansari, Advocate.

For the Respondent/s : Mr. Devendra Kumar Sinha, AAG 2.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)



7 17-04-2017

In these two Public Interest Litigations filed by the petitioners, challenges are made to Notification (Annexure 1) issued by the respondent department on 26.03.2013 by which fixation / re-fixation of revenue for various areas including the peripheral area of the district of West Champaran, Betiah have been notified in accordance to The Bihar Stamp (Prevention of Under Valuation of Instruments) (Amendment) Rules, 2013 (hereinafter referred to as 'the Rules of 2013') and by the aforesaid Notification, with effect from 01.01.2016 the Minimum Value Register Index has been effected. It was also stated that by the aforesaid, the ancillary rate now fixed is more than 200-400% above the original rate which was prevalent prior to 01.01.2016. *Inter alia*, contending that the Minimum Value Register Index has been fixed in an arbitrary manner not only in violation to the statutory Rules of 2013 but also without providing any consequential ancillary rate which are statutory duties of the local authorities, challenge is made to the aforesaid fixation.

Even though the respondents have filed a detailed Counter Affidavit and have tried to justify the action but on hearing learned counsel for the parties, we find that under Rule 3 (g) of the Rules of 2013 it is mandated that a committee is to be appointed for undertaking the process of fixation and estimation of



the Minimum Market Value, as provided under Rule 3 of the Rules of 2013, the committee is required to take steps for formulating the rule or the Minimum Market Value in accordance to the provisions of sub rule 2(g). Sub rule 2(g) of Rule 3 contemplates that the committee shall display on the notice board of the important offices, like, Collectorate, Registration Offices, Vikas Bhawan, etc. so also advertise in two local newspapers having wide circulation the draft estimated minimum value of the land / property. This shall also be displayed on the website of the district and 15 days' time from the date of publication of the advertisement shall be provided to the interested persons to submit their objections to the office of the District Sub Registrar.

From the documents and materials that are available on record, particularly Annexure 'G' filed along with the Counter Affidavit by the State Government, it is seen that the committee met on 07.01.2016, took a decision to publish the advertisement and invite objections, as contemplated under sub rule 2(g) of Rule 3, and thereafter to place the matter before the committee. Even though this decision was taken on 07.01.2016, notice was not published giving a period of 15 days as required under the statute for inviting objections. The notice was published on 15.01.2016 in various newspapers as is evident from Annexure 'H' and



thereafter on 18.01.2016 as is evident from Page 73 of Annexure 'H' to the counter affidavit. In the notices which were published on 15.01.2016 and 18.01.2016, it was directed that the objections should be submitted on or before 25.01.2016 and the documents available from Page 74 onwards of the Counter Affidavit indicate that after receiving about 64 objections, on 28.01.2016 action is taken and final proposal was issued vide Annexure 'K' on 30.01.2016.

From the aforesaid, it is crystal clear that 15 days notice for calling objections was not notified for the local area of the district of West Champaran. By giving a period of only about 10 days after issuing the notice (Annexure 'H') on 15.01.2016 and the subsequent notice on 18.01.2016, action was taken. As this is in clear violation to the mandate of the statutory provision, i.e., Rule 3, sub rule 2(g), this is sufficient enough to quash the impugned action and remand the matter back to the competent authority for reconsideration.

Keeping in view the aforesaid, both these petitions are allowed. The notification issued so far as it relates to West Champaran division by the impugned notification fixing the Minimum Value Register Index for the year 2016 for West Champaran district is quashed and the matter is left to the



competent authority of the district concerned to take fresh steps as may be permissible under the law for proceeding further in the matter in accordance with law.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Dilip, AR

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