

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1586 of 2013
IN
Civil Writ Jurisdiction Case No. 13788 of 2012**

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Pankaj Kumar Vatsa Son Of Late Lallan Sharma Resident Of Mohalla- Gewal
Bigha, P.O. & P.S.- Rampur, District- Gaya

.... Appellant

Versus

1. The State Of Bihar
2. The Commissioner, Magadh Division, Gaya
3. The Inspector Of Registration, Magadh Division, Gaya
4. The Municipal Commissioner, Gaya Municipal Corporation, Gaya
5. The Additional Municipal Commissioner, Gaya Municipal Corporation, Gaya
6. Sri Md. Kamal Ashraf, The Then District Sub Registrar, Gaya District
Registration Office, P.S.- Civil Lines, District And Town- Gaya

.... Respondents

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Appearance :

For the Appellant : Mr. Arbind Kumar Singh, Advocate

For the Respondent State: Mr. Md. N. Hoda khan,

For the Respondent Corporation : Mr. R.K.Priyadarshi, Advocate

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 03-03-2017

Heard counsel for the appellant, counsel for the State
and counsel for the Gaya Municipal Corporation.

The writ application was filed by the present appellant
against the decision of the Divisional Commissioner, Gaya, dated
03.05.2012, which was an order passed in Stamp Appeal No. 85 of
2011. By the said order of the Commissioner, the appellant was
directed to pay stamp duty at the rate of 8% of the present market
value of the property under Section 47(A) of the Indian Stamps Act.
It is this decision which was challenged in the writ application and



the learned single Judge vide order dated 27.08.2013 passed in C.W.J.C. No. 13788 of 2012 has dismissed the writ application upholding the decision of the Divisional Commissioner to be in accordance with law.

The long story narrated by the appellant both in the writ application or the appeal as to how his father made efforts for registration of this property by approaching the authorities in the year 1971 and thereafter on his death the mother made the same effort and thereafter the present appellant is of no avail because the finding recorded by the learned single Judge was that there is no authenticity, which can be attached with such kind of efforts, because the property in question was purchased by the father of the appellant in the year 1971 and the deed of registration was presented only in the year 2010. The learned single Judge further records as under :

“So far as the applicable provisions are concerned, Section 47-A (5) of the Act clearly states that for the purpose of the Act, market value of any property shall be estimated to be the price which, in the opinion of the Collector or the appellate authority, as the case may be, would have fetched or would fetch, if sold, in the open market on the date of execution of the instrument of conveyance, exchange, gift,



partition or settlement. Evidently, the date of execution admittedly mentioned in the sale deed as per the sale deed is dated 4.2.2010. Thus, in terms of the said provision, the market value of the property on the said date is to be taken into consideration.

So far as the reliance placed by the petitioner on the decisions in the aforesaid cases is concerned, none of those cases applies to the case of the petitioner. The case of Residents Welfare Association Noida (supra) was essentially a case of assignment by the Residents Welfare Association as a lease hold to its members. What has been laid down therein is that the authorities have to see not only that the consideration amount stated in the instrument of sale is less than the prevailing market value but they must be satisfied that there is an attempt at undervaluation. It was further held in the said decision that the execution of the deed had not been delayed due to any fault on the part of the appellant and therefore he cannot be held liable for intentionally suppressing the value of the property. Such is not the position in the present matter. Here there is nothing on the record to show that the petitioner had taken any effective steps for registration of the property which could not be done only due to the laches on the part of the other parties. Thus, the valuation to



be shown in the sale deed ought to have been the valuation of the property on the date when it was presented which is apparently not shown rather the valuation of the year 1971 has been shown on the sale deed. Thus, there is definitely under-valuation of the property as per the requirement of Section 47A of the Act.

The decision in the case of V.N. Devadoss (supra) also lays down similar proposition as there was a clear finding in that case that there was no under valuation of the market value of the property with a view to fraudulently evade payment of proper stamp duty.

The Division Bench decision of this Court in the case of Brij Nandan Singh (supra) also is of no avail to the petitioner as that was a case where the execution was delayed on account of the petitioner having approached the Court for getting an order of specific performance of agreement which was ultimately allowed and accordingly, the Court held that there was no attempt to undervalue the market valuation of the property.

Similarly, the decision in the case of Baidya Nath Prasad Singh does not apply to the present matter as the same related to pre-emption under the provisions of Section 16 (3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 and this



Court clearly held that any order of the Court permitting the pre-emption relates back to the date of the original sale deed.”

The submission of the learned counsel for the appellant that he had placed reliance on many a decisions of the Hon’ble Supreme Court and the High Court in support of his case has been duly considered by the learned single Judge and negated such submissions for the reasons provided as above.

The sum essence of the decision is that it is the date on which the deed is presented for registration which is of significance and the valuation of the property would be required to be made accordingly and not on a cock and bull story as to how an effort was made to get the property registered and there was no cooperation on behalf of the municipal authorities which extended for almost more than 40 years.

The appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

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