IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10588 of 2018

==

1. Ranvijay Kumar
2. Vivek Kumar Both sons of Binod Kumar, R/o Village +P.O.+P.S.-Madanpur, District- Aurangabad

... ... Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Revenue Department, Govt. of Bihar, Patna.
2. The Commissioner, Magadh Division, Gaya
3. The District Magistrate, Aurangabad.
4. The District Sub-Registrar, AurangabadBihar
5. The Deputy Inspector General, Registry, Magadh Division, Gaya
6. The Circle Officer, Madanpur, District- Aurangabad, Bihar

... ... Respondent/s

==

Appearance :
For the Petitioner/s : Mr.Shailesh Kumar Singh
For the Respondent/s : Mr. Fakhruddin Ali Ahmad, Asst. C. to Aag12

==

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT
Date : 27-05-2019

Heard the learned counsel for the petitioner and the State.

The instant writ petition has been filed for following reliefs:

(i) For quashing the order dated 09.04.2018, as contained in Annexure-8, passed by the Commissioner, Magadh Division, Gaya in Stamp Appeal No. 117 of 2017, by which appeal filed by the petitioners against order dated 28.01.2017, passed by the Deputy Inspector General (Registry), Magadh Division, Gaya in Stamp Case No. 100 of 2016 has been rejected.

(ii) For direction to the respondents-authorities to exempt the petitioners from the liability to pay the valuation of commercial land with regard to the sale deed.

Learned counsel for the petitioners has submitted that petitioners have purchased 11 decimals of land of Plot no. 23, Khata No. 209, Mauza-Khiryama from Ratan Jyoti Kumar, w/o Manoj Kumar. They deposited the required Stamp for agricultural land in the Registry Office for registration of sale deed. The respondents-authorities issued notice to the petitioners to deposit Stamp duty with regard to the aforesaid land at commercial value. In pursuance of aforesaid notice, petitioners appeared before the Registrar and submitted that they have purchased agricultural land. Thereafter respondents directed the Circle Officer, Madanpur to submit report with regard to nature of the land purchased by petitioners vide letter no. 1041 dated 05.11.2015 (Annexure-2).

The Circle Officer, Madanpur, after spot inspection, submitted report on 23.12.2015 to the District Sub-Registrar, Aurangabad stating therein that the purchased land is agricultural land, vide letter no. 1034 dated 26.12.2015 (Annexure-3).

The Assistant Inspector General (Registration), Magadh Division, Gaya, ignoring the report of the Circle Officer, passed order dated 28.01.2017 directing the petitioners to deposit Rs. 1,29,228/-. Copy of aforesaid order dated 28.01.2017 is annexed as Annexure-4. Thereafter, petitioners filed appeal before the Commissioner, Magadh Division, Gaya on 28.06.2017 (Annexure-7), which was dismissed on the ground that petitioners had not paid 50% of the amount of the demanded charges. Copy of order dated 09.04.2018 passed in Stamp Appeal No. 117 of 2017 is annexed as Annexure-8.

Counter Affidavit has been filed by the State wherein it has been submitted in para 11 that aforesaid land comes under commercial category. The part of aforesaid land has already been registered earlier under commercial category vide Deed No. 7832 dated 08.06.2015. From perusal of Nazari Naksha of earlier registered deed it appears that the vended land is adjacent to the road and is situated on the Madanpur-Khiriyawan-Kasma-Rafiganj Main Road. The petitioners have presented the document for its registration by suppressing the true material facts in Nazari Naksha. Thereafter aforesaid document has been referred to the Assistant Inspector General, Registration, Magadh Division, Gaya under Section 47A of the Indian Stamp Act, vide letter no.

100/Aurangabad, dated 15.08.2016 of District Sub-Registrar, Aurangabad showing deficit amount under Stamp Head of Rs. 1,17,480/-. The petitioners were directed to file their objection but they did not file any objection. The petitioners filed appeal before the Assistant Inspector General (Registration), Magadh Division, Gaya, who had ordered the petitioners to deposit the deficit stamp duty (fiscal), but the petitioners did not deposit the stamp duty and filed appeal before the Commissioner, Magadh Division, Gaya, vide Appeal No. 117 of 2017. The appeal was dismissed on 09.04.2018 (Annexure-8) under Section 47(6) of the Indian Stamp Act as petitioners had not deposited 50% of the deficit amount.

In such circumstances, this Court does not find any illegality in the order passed by the Commissioner, as contained in Annexure-8, by which the appeal filed by petitioners was dismissed.

Learned counsel for the petitioners has submitted that he is not inclined to get registered the aforesaid land by paying stamp at commercial value. He is ready to forgo the amount of stamp duty, which he has already deposited at the time of submission of document for registration claiming the aforesaid land as agricultural land.

The petitioners are directed to file necessary petition before the District Sub-Registrar, Aurangabad making aforesaid prayer that they are not interested for registration of aforesaid land at commercial value. They are also not claiming for refund of the amount of stamp duty, which has already been paid by them at the time of submission of document for registration claiming the aforesaid land as agricultural land.

The District Sub-Registrar, Aurangabad shall pass appropriate order in accordance with law on such petition filed by petitioners within a period of one month from the date of filing of petition by the petitioners.

The instant writ petition is accordingly disposed off.

(Sanjay Priya, J)

rakhi/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	30.05.2019
Transmission Date	