IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.723 of 2020

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Deo Prasad Singh, Son of late Ram Chandra Singh, Resident of Mohalla-Rukunpura, P.O.- B.V. College, and Police Station- Rupuspur, District- Patna-800014.

... ... Petitioner/s

Versus

1. Union of India through The Finance Secretary, Room No. 6A, 3rd Floor, Department of Finance Minister, Govt. of India, North Block New Delhi-110001.
2. The Principal Chief Commissioner of Income, Tax-II, Patna. At Revenue Building, Virchand patel Marg, Baily Road, Patna - 800001
3. The Principal Commissioner of Income Tax-II, Patna. At Revenue Building, Virchand patel Marg, Baily Road, Patna - 800001.
4. The Income Tax Officer, Ward -6 (2), Patna. At Lok Nayak Jai Prakash Building, New Dakbanglow, Road, Patna - 800001.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. D.V. Pathi, Advocate Mr.Chiranjiva Ranjan, Advocate
For the Income tax	:	Mr.S.D.Sanjay (Adsg) Mr. Rishiraj Sinha, Advocate Mrs. Archana Sinha, Advocate Mrs. Priya Gupta, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 14-01-2020 The petitioner through the instant petition has prayed for the following relief:

> "I. For issuance of an appropriate writ/order/direction to respondent nos.1 and 2 to declare and hold the amendment in section

45(5A) of the Income Tax Act, 1961 with retrospective effect for all Development Agreement entered prior to the A.Y.-2018-19 as such the Memorandum explaining the provision of the Finance Bill, 2017 was to minimize the genuine hardship which the owner of land is/was facing in paying capital gain tax in the year of transfer.

II. For issuance of appropriate writ/order/direction in the nature of certiorari for quashing the demand of Rs. 3,90,032 for the A.Y.-2015-16 (as contained in Annexure-5) which has been arisen in pursuant of assessment order passed under section 144 read with 147 of Income tax Act, 1961 (as contained in Annexure-5/1) whereby income tax has been levied/charged on the hypothetical income determined/assessed on capital gain on the basis of transfer took place under the Development agreement made on 21.5.2014 (as contained in Annexure-1) which was not performed and even handing over the Flt to the petitioner.

III. Commanding Respondent no.4 to stay the demand of income tax as contained in Annexure-5 till the disposal of the writ application in the facts and circumstances as stated in this writ application.

IV. For any other relief to which the petitioner is found to be entitled."

Learned counsel for the petitioner seeks permission to withdrawn the present writ application reserving liberty to file fresh petition for the same and subsequent cause of action, if so required.

(Sanjay Karol, CJ)

(Anil Kumar Upadhyay, J)

Ravi/-

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