# IN THE HIGH COURT OF JUDICATURE AT PATNA
**Civil Writ Jurisdiction Case No.3587 of 2015**

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Smt. Pushpa Devi Wife of Sri Krishna Prasad Keshri, Resident of Mohalla-Devi Stan Chauk, Badi Mazid, P.S.- Ara Town, District- Bhojpur

... ... Petitioner

Versus

1. The State of Bihar
2. The District Magistrate-cum-District Registrar, Ara, Bhojpur
3. The District Sub Registrar, Ara, Bhojpur
4. The Inspector of Registration Officer, Patna, Bihar
5. The Accountant General, Bihar, Patna

... ... Respondents

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**Appearance :**

For the Petitioner : Mr. Rajendra Nath Sinha
For the Respondent State: Mr. Anil Kumar Singh, AC to SC-21
For the Accountant General : Mr. Chaitanya Swaroop

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH**

**ORAL JUDGMENT**

**Date : 07-02-2020**

This writ application has been filed seeking quashing of the order dated 25.09.2014/26.09.2014 passed in Registration Case No. 38 of 2013, whereby the Board of Revenue, Bihar, has directed the petitioner to deposit the deficit stamp for registration of a sale deed.

The brief facts of the case are that a sale deed was presented for registration before Sub Registrar, Bhojpur, in respect of the land described as Thana No. 246, Plot No.143, Old Khesra No. 496, admeasuring 10 katha, 7 dhur, 9 dhurkhi (equivalent to approximately 32.41 decimal) by the petitioner. The nature of the land was described as agricultural. The District Sub Registrar, Bhojpur, refused to register the sale deed mainly on the ground that correct value of the land was not set forth in the sale deed in order to avoid payment of appropriate stamp duty. The petitioner made an application before the Registration Inspector, who by an order dated 24.02.2010 considered the nature of land to be agricultural and on determining the rate of the land to be Rs.4800/- per decimal, directed him to deposit a sum of Rs.4326/- instead of Rs.8160/-, which was paid by the petitioner for registration.

It transpires that the dispute was referred to the Board of Revenue, being the chief controlling revenue authority, by the Collector, under Section 56 of the Indian Stamp Act, 1899, which gave rise to the said Case No.38 of 2013. The chief controlling revenue authority, after examining various aspects of the matter came to the conclusion that the land in question was residential in nature.

Learned counsel appearing on behalf of the petitioner, assailing the impugned order, has made two fold submissions. He has submitted that the Board of Revenue did not have jurisdiction to entertain the appeal filed by the Sub Registrar. He has further submitted that since the decision is based on the objection of an audit team of the office of the Accountant General only, the order is unsustainable. He has relied on a decision of coordinate Bench

Bench of this Court dated 08.09.2014 passed in C.W.J.C. No. 24375 of 2013 (***Ravi Kumar Singh vs. The Chairman cum Member Board of Revenue and Others***).

Learned counsel appearing on behalf of the State of Bihar, on the other hand, has submitted, with reference to the counter affidavit, that it was in course of an audit conducted by the audit team of the Accountant General, Bihar, that an objection was raised to the effect that though there was no land of irrigated category, the MVR of Ara Municipal Corporation Area should have been applied and the disposal of the case by the Inspector, asking the petitioner to pay stamp duty treating the land to be agricultural (irrigated), had resulted into loss of revenue. It was in the light of the said objection that the District Sub Registrar had filed an appeal before the chief controlling revenue authority for proper realization. He has submitted that on the spot enquiry was conducted by the Registrar himself when he found that the plots, which had been sold to different purchasers including the petitioner, were adjacent to the Ara-Gundi pucca road, over which there had been construction of residential houses. He has submitted that plots were sold by other executants from deed No. 1878 dated 02.03.2010, showing the nature of the land as residential. He has further submitted that the powers exercisable by a Collector under Chapter IV and Chapter V and under Clause (a) of the first proviso to Section 26 are subject to the control of the chief controlling revenue authority, in view of Section 56(1) of the Act. He accordingly submits that the Board of Revenue being the controlling authority under Section 56(1) of the Act has rightly exercised its power.

So far as the first submission made on behalf of the petitioner that the Board of Revenue did not have any jurisdiction to consider the dispute in question deserves to be rejected in view of this Court's decision in case of ***Ravi Kumar Singh*** (supra), wherein the Court has categorically held as follows : -

> **"I have heard learned counsel for the parties and I have considered their submissions. In so far as the issue regarding exercise of jurisdiction is concerned, this Court is of the view that there is absolutely no error in exercise of the jurisdiction by the Chief Controlling Revenue Authority for all orders passed by the Collector have been made subject to his control and thus he is fully vested with powers to revise any such order which requires the exercise of such jurisdiction and reflects an attempt to evade stamp duty.**
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> **Considering the language of Section 56(1) of the Act, in the opinion of this Court the objection raised by Mr. Rajendra Nath Sinha as regarding the manner of exercise of jurisdiction by the Member Board of Revenue does not persuade this Court to interfere with the order impugned on this ground for**

**the Member, Board of Revenue is amply vested with such powers.**"

Coming to the second submission made on behalf of the petitioner that the decision of the chief controlling revenue authority is based on the audit report of the audit team of the Accountant General only, in my view, the said submission is also not acceptable to this Court. The audit team simply raised an objection to the effect that categorization of the land in question as agricultural (irrigates) had caused loss to the State revenue. The said objection could have been valid basis for the Sub Registrar to prefer appeal before the chief controlling revenue authority, but that was certainly not the only basis for the authority to pass the order, which is impugned.

It is evident on seeing the discussion made in the impugned order that the chief controlling revenue authority has not allowed the appeal merely on the basis of objection of the audit team, rather he has considered the manner in which the Inspector had treated the land to be agricultural in nature on an application filed by the petitioner. He has specifically mentioned in the impugned order that the order of the Inspector did not reflect any procedure adopted for determination of the valuation of the land for the purpose of quantifying the stamp duty. The authority has thereafter considered Sale Deed No. 1878 dated 02.03.2010 through which another plot of land of same khesra was sold, treating the nature of the land to be residential in nature. The second submission made on behalf of the petitioner is also not acceptable to this Court in view of the discussion in the impugned order.

The impugned order thus does not suffer from any lack of jurisdiction nor from any other legal infirmity. It discloses application of mind, which is based on relevant materials available in the proceeding before the authority. The impugned order thus cannot be said to be suffering from the vice of non application of mind. Since the decision is based on some evidence, which cannot be said to be irrelevant, this Court, exercising power of judicial review under Article 226 of the Constitution of India, need not interfere as if acting as an appellate Court.

This application has no merit. It is accordingly dismissed.

**(Chakradhari Sharan Singh, J)**

Pawan/-

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| **AFR/NAFR** | NAFR |
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| **Uploading Date** | 04-03-2020 |
| **Transmission Date** | N/A |