IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 12994 OF 2022

Trinath Maharana ***Petitioner***

Mr. Gopal Krushna Mohanty, Advocate

-versus-

State of Odisha and others .... ***Opp. Parties***

Mr. Ajodhya Ranjan Dash,
Additional Government Advocate
(For Opposite Party Nos.1, 3 & 4)

Mr. Jyotirmay Barik, Advocate
on behalf of Mr. Dayananda Mohapatra, Advocate
(For Opposite Party No.2)

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
13.09.2022

Order No.

03. 1. This matter is taken up through hybrid mode.

2. Though the matter was adjourned to be listed in the week commencing from 26th September, 2022, but on the prayer of Mr. Mohanty, learned counsel for the Petitioner the same is listed today in the supplementary cause list in view of his submission that similar matters are pending for consideration before IGR and it would be convenient to move all the applications before the IGR simultaneously.

3. Grievance of the Petitioner in this writ petition is with regard to levy of stamp duty for registration of deed of lease-cum-sale dated 24th February, 2020 (Annexure-1) in respect of core house, i.e., MIG 78 Phase-I, Pokhariput BDA Colony, Bhubaneswar.

4. Mr. Mohanty, learned counsel for the Petitioner submits that pursuant to advertisement floated by Bhubaneswar Development Authority (BDA), Petitioner applied for a core house on lease-cum-sale basis. Pursuant to an agreement entered into, the Petitioner was delivered with possession of the said core house in the year 1998. Since then, the Petitioner is residing therein by completing construction of the core house. After much persuasion, a deed of lease-cum sale was executed between BDA and Petitioner and the same was registered on 24th February, 2020. However, the registering authority has levied stamp duty on the said deed of registration as per the bench mark/market value of the property prevailing on the date of registration of the deed in question.

4.1 Being aggrieved, the Petitioner made a representation to the Inspector of General, Registration, Odisha, Cuttack (IGR) on 24th December, 2021 (Annexure-2) for consideration of levying Stamp Duty, as aforesaid, but no action has yet been taken on the same. In view of the above, the Petitioner finding no other alternative has filed this writ petition to issue direction to the Opposite Parties to refund differential stamp duty charged at the time of registration of the property. It is his submission that law is no more *res integra* on the issue, as this Court, vide order dated 31st March, 2021, passed in W.P.(C) No.8942 of 2021, held as under:-

> *"It is keeping all the above in view, this Court finds that stamp duty involving the registration of instrument based on lease-cum-sale deed entered into the parties at a particular rate and particular time will be the value for the registration purpose. It is in the circumstance, this Court in*

> *disposal of the Writ Petition while reiterating the settled position of law through the above judgment directs the opposite party ns.1 and 2 in the event the instrument is placed for registration by this petitioner, the Registering Authority shall register the same on the face value of the lease-cum-sale deed involved herein by accepting the stamp duty on the value as indicated therein by completing the entire exercise within a period of seven days.*
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> *For number of cases coming to this Court on this aspect, the IGR of the State is directed to issue necessary communication to all the Registrars and Sub-Registrars of the State to follow the above direction in future registration of this nature at least to avoid flowing of such cases to this Court.*
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> *Free copy of this order be supplied to Mr.S.Ghosh, learned Additional Standing Counsel for the State for communication to the IGR of the State."*

4.2 It is his submission that pursuant to the order passed by this Court, as quoted above, Board of Revenue, Odisha, Cuttack, vide its letter No.5921 dated 1st December, 2021, issued instructions to the Sub-Registrar, Khandagiri, Bhubaneswar to levy stamp duty as per the bench mark value in respect of the core houses prevalent at the time of handing over possession. In spite of the same, the IGR has failed to consider the representation of the Petitioner and issue necessary directions for refund the differential stamp duty.

5. Taking into consideration the submission made by learned counsel for the Petitioner, this Court, vide order dated 24th June, 2022, directed learned State Counsel to take instruction. Mr. Dash, learned AGA, however, prays for further time to take instruction in the matter.

6. Taking into consideration the facts and circumstances of the case and that the issue involved in this writ petition has

already been answered in W.P.(C) No. 8942 of 2021, which was disposed of on 31st March, 2021 as well as letter dated 1st December, 2021 of Board of Revenue, this Court feels that no fruitful purpose will be served awaiting response from the Opposite Parties. As such, this Court is of the considered opinion that case of the Petitioner should be considered in the light of the said direction and instruction respectively.

7. In view of the above, this Court disposes of the writ petition with a direction to the IGR, Odisha, Cuttack-Opposite Party No.3 to take a decision on the representation of the Petitioner dated 24th December, 2021 (Annexure-2) as expeditiously as possible, preferably within a period of four weeks from the date of production of certified copy of this order and the result thereof shall be communicated to the Petitioner forthwith. Excess stamp duty, if any, collected from the Petitioner at the time of registration of Lease-cum-Sale Deed dated 24th February, 2020 (Annexure-1), shall also be refunded to the Petitioner within a period of four weeks thereafter.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge

s.s.satapathy