

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 23737 OF 2022

Manmohan Mahapatra

....

Petitioner

Mr. Rajjeet Roy, Advocate

-versus-

State of Odisha and others

.... ***Opp. Parties***

Mr. Pravakar Behera,

Standing Counsel

(For Transport Department)

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

19.09.2022

Order No.

01. 1. This matter is taken up through hybrid mode.
2. 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 13th January, 2020 (Annexure-1) in respect of core house, i.e., MIG-24, Anant Vihar, Phase-II, Pokhariput, Bhubaneswar.
3. Mr. Roy, 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 2005. 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 13th January, 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.

3.1 Being aggrieved, the Petitioner made a representation to the Inspector of General, Registration, Odisha, Cuttack (IGR) on 10th August, 2022 under Annexure-3 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 nos.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.

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.

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.”

3.2 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 (Annexure-2), issued instructions to the Sub-Registrar, Khandagiri, Bhubaneswar to levy stamp duty as per the benchmark 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.

4. 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 (Annexure-2), 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.

5. In view of the above, this Court disposes of the writ petition with a direction to the IGR, Odisha, Cuttack-Opposite Party No.2 to take a decision on the representation of the Petitioner dated 10th August, 2022 under Annexure-3 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 13th January, 2020, shall also be refunded to him within a period of four weeks thereafter.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge

bks

