

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3584 of 2018

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Sanayogiya Devi Wife of Dev Chandra Mahto, Resident of Village-Bahilwara
@ Garha, P.S.-Runnisaidpur, District-Sitamarhi.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Assistant Inspector General of Registration, Tirhut Division,
Muzaffarpur.
3. The District Collector-cum-District Registrar, Sitamarhi.
4. The District Sub-Registrar, Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashhar Mustafa, Advocate
For the Respondent/s : Mr. Manish Kumar, AC to AAG 6

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 18-04-2023 Heard learned counsel or the petitioner and learned
counsel for the respondents.

The petitioner has filed the instant application for the
following relief(s) :

*“i. For issuance of writ of certiorari to
set aside the order dated 26.05.17, by which
respondent no. 2 has unilaterally and arbitrarily
directed the petitioner to pay fine and exorbitant
interest along with the deposit deficit stamp duty.*

*ii. For issuance of writ of mandamus
commanding the respondents to accept the deficit
stamp duty of Rs. 41,176/- without fine or interest,
as also directed by learned Sub- Judge-I, Sitamarhi
vide order dated 22.09.2017.*



iii. For grant of any other relief in the interest of justice, equity and good conscience.”

The case of the petitioner in brief is that Title Suit no. 80 of 1982 filed by one Ram Niwas Shahi against Late Bhola Mahto was decreed ex-parte on 2.3.1984. The decree holder executed a sale deed for valuable consideration with respect to the land in question in favour of the petitioner. The registration was challenged by the heirs of Late Bhola Mahto by filing Miscellaneous Case no. 3 of 2008 wherein prayer was made to dismiss the Execution Case no. 10 of 1984.

Learned counsel for the petitioner submits that the said miscellaneous case filed by the heirs of Late Bhola Mahto was dismissed on 20.6.2009. Against the said order of dismissal CWJC no. 18996 of 2012 was preferred which was also dismissed on 20.11.2013. Further vide order dated 24.5.2012 passed in Execution Case no. 10 of 1984 the respondent no. 4 was directed to furnish a report regarding value of stamp duty for execution of the sale deed. The same was said to be about Rs. 41,160/-. The matter was referred to the appropriate authority ie the Assistant Inspector General of Registration, Tirhut Division, Muzaffarpur (respondent no. 2) who decided the same by his order dated 26.5.2016 (Annexure-3) holding



that a total amount of Rs. 45,276/- was required to be deposited. The said order (wrongly typed in paragraph no. 1 as 26.5.2017) is under challenge in the instant writ application.

Having heard learned counsel for the parties and having perused the material on record specially the order impugned dated 26.5.2016 (Annexure-3), this Court is of the opinion that the order impugned *prima facie* suffers from non-application of mind in so far as the facts with respect to the matter in issue with respect to the petitioner have been filled up in a typed format. On this ground alone the application is fit to be allowed.

Learned counsel for the respondents referring to the counter affidavit submits that there is no illegality in the order. The petitioner was heard prior to passing of the said order and a reasoned order has been passed. There is no merit in the instant application and the same be dismissed.

Having heard learned counsel for the parties and taking into consideration the facts of the case especially the fact of the order dated 26.5.2016 as contained in Annexure-3 having been passed on a typed format and thus suffering from non-application of mind, on this ground alone the said order is set aside. The matter is remitted back to the Assistant Inspector General of Registration, Tirhut Division, Muzaffarpur



(respondent no. 2) for fixing a date of hearing for passing an order in accordance with law after hearing the parties.

This application stands dismissed with the following directions :

(i) The petitioner shall appear before the Assistant Inspector General of Registration, Tirhut Division, Muzaffarpur (respondent no. 2) on 8.5.2023 on which date the petitioner or her representative will be informed about the date on which she will be heard.

(ii) The petitioner will have an opportunity to file a further petition in the case along with all supporting documents.

(iii) The respondent no. 2 shall hear the parties concerned and pass a fresh order in accordance with law and taking into consideration the submissions made.

(iv) The fresh order shall be passed by the respondent no. 2 within a period of three months of the date of hearing fixed by the said respondent.

This application stands disposed of with the above observations and directions.

(Partha Sarthy, J)

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