IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18514 of 2016

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Pradeep Kumar Bhartiya Son of Late Prabhu Dayal Bharitya Resident of Mohalla - Jawahar Chauk, Sitamarhi, P.S. Sitamarhi, District - Sitamarhi.

... ... Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Executive Officer, Nagar Parishad, Sitamarhi.
3. The Chairman, Nagar Parishad, Sitamarhi.
4. The Tax Collector Daroga Nagar Parishad, Sitamarhi.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Devendra Kumar
For the Respondent/s : Mr. Yogendra Prasad Sinha-Aag7

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 16-02-2023 Heard learned counsel for the petitioner, learned counsel for the State and learned counsel appearing for the Municipal Corporation, Sitamarhi.

Learned counsel for the petitioner submits that the present writ application has been filed seeking a direction upon the respondent No. 2 for fixing the holding tax of the petitioner's premises bearing Holding No. 100 having Jamabandi No. 649 pertaining to Khesra No. 149 situated in Ward No. 24 after bifurcating the original Holding No. 100 in two parts i.e., in the name of the petitioner and his brother and, thereafter, to fix the holding tax after taking into consideration, the fact, that the premises in question was earlier being utilized for commercial purpose but now by changing the nature of the premise, the same is being used for residential purpose by the petitioner and his brother.

Learned counsel next submits that the dispute, in the present case, relates to a piece of land appertaining to Jamabandi No. 649 Khesra No. 149 Holding No. 100 situated under Ward No. 24 of Sitamarhi Mehsul Chowk under Nagar Parishad, Sitamarhi which now have attained the status of a Municipality, the land in question was originally recorded in the name of father of the petitioner, Late Prabhu Dayal Bhartiya. It is next submitted that the holding tax was being collected by the erstwhile Nagar Parishad, Sitamarhi. It is next submitted that when the father of the petitioner was alive, the premise in question was having two shops which was being run by his father but after the death of his father, the property was partitioned between the petitioner and his brother in equal measures and after partition, the premise in question was being used only for residential purpose. Learned counsel next submits that his father died on 04.01.1985 and in the year 1999, a notice was received in the name of his father asking to deposit a sum of Rs. 14,049, and the same was deposited by the petitioner on 11.01.1999.

Learned counsel next submits that after partition of the property between the brothers, the property was being used only for residential purpose and thus the petitioner had represented before the respondent No. 2 and 3, as would be evident from Annexure-4 Series to the writ application, for fixing the holding tax of the premise after bifurcating the original holding No. 100 which stood in the name of the father of the petitioner and also after taking into consideration, the fact, that now the premise in question is being used only for residential purpose but the authorities, till date, have not chosen to dispose of the representation of the petitioner which was filed in between 2003 to 2016.

Learned counsel appearing for the Municipality submits that a counter-affidavit has been filed. The copy of the counter-affidavit is not on record but the learned counsel for the municipality supplied the copy of the counter-affidavit wherein it is recorded that against the premise holding tax of Rs. 5,85,843/- is due from 11.01.1999 till 2013 and until and unless the dues are clear, no bifurcation of holding can be done nor the holding tax can be refixed, however, the learned counsel very fairly submits that, in the event, if the petitioner files a fresh representation before the respondent No. 2 with all the details, the respondent No. 2 shall consider and dispose of his representation.

Learned counsel for the petitioner, at this stage, submits that the petitioner will file a fresh representation within a period of one month from today and is ready to clear the outstanding municipal dues.

In the event, if the petitioner files a representation before the respondent No. 2 within thirty days from today with respect to the grievance as raised in the present writ application, the respondent No. 2 shall dispose of the representation within a period of three months, thereafter, in accordance with law.

The writ application is disposed of.

(Satyavrat Verma, J)

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