

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3901 of 2023

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Ganga Mahto S/o Chandeshwar Mahto R/o Village-Basopatti West, P.O. and
P.S.-Basopatti, District-Madhubani ... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Prohibition, Excise and Registration Act, Government of Bihar, Patna.
2. The Principal Secretary, Prohibition, Excise and Registration Act, Government of Bihar, Patna.
3. The Assistant Inspector General of Registration, Darbhanga Division, Darbhanga.
4. The District Magistrate, Madhubani.
5. The District Sub Registrar, Jaynagar, Madhubani.
6. The District Certificate Officer, Madhubani. ... Respondents

with

Civil Writ Jurisdiction Case No. 7126 of 2023

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Shambhu Kumar Mahto S/o Lalit Mahto R/o Village Basopatti East, Ward
No. 05, P.O. and P.S. - Basopatti, District- Madhubani ... Petitioner

Versus

1. The State of Bihar Through the Principal Secretary, Prohibition, Excise and Registration Act, Government of Bihar, Patna
2. The Principal Secretary, Prohibition, Excise and Registration Act, Government of Bihar, Patna
3. The Assistant Inspector General of Registration, Darbhanga Division, Darbhanga
4. The District Magistrate, Madhubani
5. The District Sub Registrar, Jaynagar, Madhubani
6. The District Certificate Officer, Madhubani ... Respondents

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Appearance :

(In both the cases)

For the Petitioner : Mr.Vagisha Pragya Vacaknavi, Adv.
For the Respondents : Mr.Vikash Kumar, SC XI

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

8 12-09-2023 Heard learned counsel for the parties.

2. The present Writ Petition is filed for the following
relief(s) :



(i) for quashing order dated 03.06.2022 of the Respondent No.6-District Certificate Officer, Madhubani and Notice dated 03.06.2022 passed in Certificate Case No.04 of 2022-23 of Respondent No.6-District Certificate Officer, Madhubani issued to the petitioner u/s 7 of the Bihar & Orissa Public Demand Recovery Act, 1914 in respect of certificate of amount of Rs. 10,21,867/- filed by the Respondent No.5-District Sub Registrar, Jaynagar in the office of the District Certificate Officer, Madhubani

(ii) for quashing order contained in Memo No.1027 dated 24.12.2019 passed in Case No.62/2019-20 by the Respondent No.3-the AIG, Darbhanga Division, Darbhanga passed u/s 47-A of the Indian Stamp Act, 1899. It is relevant to state here that the petitioner has neither been notice nor heard in such proceeding before passing the said order. Moreover, the petitioner has never been served or supplied with the copy of the said order although application dated 30.11.2022 has been made by him for obtaining the certified copy of the same. Therefore, the copy of the said order is not available with the petitioner and is not annexed with this writ petition:

(iii) for direction to Respondent No.5 District Sub Registrar, Jaynagar to register the sale deed presented on 11.07.2019 by the petitioner for its registration which has been duly executed with sufficient stamp as per correct market value, by Chandeshwar Mahto in favour of the petitioner and his brothers in respect of 8 katha of land of mauza Basopatti, Thana No.38, Tauzi No.77C/18B, fully described therein and return the original sale deed to the petitioner after its registration under the provisions of the Registration Act, 1908.

(iv) for grant of any other relief / reliefs to which the petitioner is found entitled in law.

3. Learned counsel for the petitioner has stated that the authority concerned without putting the petitioner on prior



notice has passed the order impugned in the present Writ Petition. Counsel has stated that the Respondent No. 3, herein, has passed an order vide Memo No. 1027, dated 24.12.2019, passed in Case No. 62 of 1919-20 under Section 47 of the Indian Stamp Act. That the Respondent No. 3 without putting the petitioner on notice or calling for an explanation has passed the orders directing the petitioner to pay the deficit stamp duty. Counsel for the petitioner has stated that the said order passed by the 3rd Respondent is against the principles of natural justice and equity and, therefore, the same is liable to be set aside. Learned counsel has stated that the consequential initiation of the proceeding before the District Certificate Officer under Section 7 of the Bihar and Orissa Public Demand Recovery Act is totally illegal, bad and arbitrary, therefore, the order passed by the Respondent No. 6 vide order, dated 03.06.2022, has to be necessarily set aside.

4. In the counter affidavit filed by the Respondents No. 3 to 6, the above averments made by the petitioner that no notice was served on the petitioner before passing the order by the 3rd Respondent has not being denied. This Court as well as the Hon'ble Supreme Court in a catena of cases time and again have held that any authority before passing any adverse orders



have to put the affected party on prior notice, call for an explanation and thereafter, pass a reasoned order. The principles of natural justice and equity mandate that the person against whom an action is sought to be taken should be put on prior notice and given an opportunity of submitting his explanation and also an opportunity of hearing if needed. The above requirements of law are missing in the particular case.

5. Having regard to the above mentioned facts and circumstances, the order, dated 03.06.2022, passed by the District Certificate Officer, Madhubani (Respondent No. 6) is **set aside** and so also the consequential order, dated 24.12.2019, passed by the Assistant Inspector General of Registration, Darbhanga Division, Darbhanga (Respondent No. 3) is also set aside and the matters are remanded back to the 3rd Respondent for passing order afresh.

6. It is needless to mention that before passing any orders, the Respondent No. 3 shall put the petitioner on notice and give him an opportunity of filing his explanation. After receipt of the explanation submitted by the petitioner, the authority concerned shall pass a reasoned orders. The entire exercise shall be completed as expeditiously as possible preferably within a period of eight weeks from the date of



receipt of a copy of this order. Any order passed shall be communicated to the parties.

7. With the above directions, these Writ Petitions are **allowed** to the extent indicated.

(A. Abhishek Reddy , J)

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