IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 10601 of 2012

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1. JITENDRA NATH TIWARY Son of Sri Siya Ram Tiwary Resident of Mohalla-Sahibganj, P.S.- Chapra Town, District – Saran.

2. Kavindra Nath Tiwary Son of Sri Siya Ram Tiwary Resident of Mohalla Sahibganj, P.S. Chapra Town, District - Saran

... ... Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner, Saran Division, Chapra
3. The District Magistrate, Saran, Chapra
4. The Inspector of Registration Offices, Saran Division, Chapra
5. The Circle Officer, Sadar Chapra, Chapra, Saran
6. The District Sub-Registrar, Saran, Chapra
7. Vishwa Nath Singh S/o Late Jita Nawal Singh R/o Jain Colony Bichala Telpa, Near Hawai Adda, P.S. Town Saran Chapra

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. S.S. Tiwary, Advocate Mr. Ashutosh Ranjan Pandey, Advocate
For the Respondent/s	:	Mr. Ajit Kumar, GA-9 Mr. Vikash Jha, AC to GA-9

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date : 04-04-2023

1. The present writ petition has been filed for quashing the order dated 04.12.2010 passed by the Inspector of Registration Office, Saran Division, Chapra i.e. the respondent no. 4, whereby and whereunder the petitioners have been directed to deposit the deficit stamp duty, as also for quashing

the order dated 17.01.2012 passed by the Commissioner, Saran Division, Chapra, whereby and whereunder the revision petition filed by the petitioners have been rejected.

2. The brief facts of the case, according to the petitioners, are that in between the years 1989-99 to 2000-01, the petitioners had purchased land in Mauja-Telpa from different persons by means of various sale deeds after paying the requisite stamp duty and the nature of the said land was mentioned as agricultural. It is further submitted that the petitioner no. 2 had purchased various chunks of land vide sale deeds dated 17.04.1998, 31.12.1999, 01.01.2000, 04.09.2001 and 20.09.2003 from various persons. Similarly, the petitioner no. 1 had purchased various chunks of plot from various persons vide sale deeds dated 20.01.2000, 24.01.2001 and 04.09.2001. It is submitted that the neighbor of the petitioners, namely, Vishwanath Singh and his family members were on inimical terms with the petitioners and were putting pressure upon the petitioners to

provide passage, however, upon denial of the same by the petitioners, they had filed criminal cases against the petitioners but when the petitioners still did not succumb to the pressure created by the said Vishwanath Singh, the said Vishwanath Singh had filed a complaint before the District Magistrate, Chapra, Superintendent of Police, C.B.I., Sub-Registrar, Saran at Chapra and before the Secretary, Revenue and Land Reforms Department, Government of Bihar as also before other authorities, interalia alleging therein that the land of the petitioners have been undervalued as such the petitioners have committed theft of government revenue. It is stated that thereafter, the Circle Officer, Saran, Chapra had submitted a report before the District Sub-Registrar, Saran whereupon the District Sub-Registrar, by his letter dated 20.04.2005 had referred the matter under Section 47A (1) of the Indian Stamp Act, 1899 to the District Magistrate, Saran for realization of deficit stamp fee and registration charges. Thereafter, the District Magistrate, Saran had issued a show cause notice to the petitioners, whereupon the petitioners had appeared and contested the case. The Inspector of Registration Offices, Saran Division, Chapra had then passed the impugned order dated 04.12.2010, directing the petitioners to deposit deficit stamp fees within a period of 15 days. The petitioners had then filed a Stamp Revision Case No. 109 of 2010, before the learned Court of Commissioner, Saran Division, Chapra but the same has also been dismissed.

3. The learned counsel for the petitioners has submitted that the learned foras below have failed to appreciate the case of the petitioners to the effect that village-Telpa, which is at a distance of about three kilometers from Chapra town, was agricultural village up to the year 2003 and subsequently the said area started developing, hence the learned foras below, without any basis have held that the land purchased by the petitioners in between the years 1998 to 2003 was/is a residential category land. It is also submitted that a *mala fide* report has been

submitted by the Halka Karamchari, hence the impugned orders dated 04.12.2010 and 17.01.2012 are fit to be set aside.

4. *Per contra*, the learned counsel for the respondent-State has submitted, by referring to the counter affidavit filed in the present case that the petitioners have failed to declare the proper category/type/nature of the land in question as also its correct market value, while getting the sale deeds in question registered. It is also submitted that the petitioners had got nine sale deeds registered, out of which the sale deeds dated 20.01.2000, 24.01.2001, 04.09.2001 and 20.09.2003 pertain to the petitioner no. 1, while the sale deeds dated 17.04.1998, 12.12.1999, 11.08.2000 and 04.09.2001 pertain to the petitioner no. 2. It is further submitted that the District Sub-Registrar, Saran, Chapra had asked the Circle Officer, Chapra Sadar to verify and report regarding the type and category of the land transferred in favour of the petitioners vide the aforesaid sale deeds in question, whereupon the Circle Officer, Chapra

Sadar by his letter dated 01.12.2004 had reported that the category and type of land mentioned in the sale deeds are incorrect, whereafter the District Sub-Registrar, Saran, Chapra vide his letter dated 20.04.2005 had made reference to the Collector, Saran at Chapra under Section 47A(1) of the Indian Stamp Act, 1899 for realization of the deficit stamp duty and registration charges. The Collector, Saran at Chapra had then initiated a case bearing Stamp Case No. 5 of 2005, for realization of the deficit stamp duty and then in the year 2007 the same was transferred to the Inspector of Registration Offices, Saran Division, Chapra i.e. the respondent no. 4 herein, upon power of Collector under Section 47A of the Indian Stamp Act, 1899 being vested in him so that the pending cases could be disposed of quickly. The petitioners had appeared before the respondent no. 4, who had then disposed of the afore-said Stamp Case No. 5 of 2005, by the impugned order dated 04.12.2010, directing the petitioners to deposit deficit stamp duty. The petitioners had then filed an appeal before the Commissioner, Saran Division challenging the aforesaid order dated 04.12.2010, whereafter a Stamp Revision Case No. 109 of 2010 was registered and finally the same was rejected by the impugned order dated 17.01.2012. It is also submitted that at the time of registration of the aforesaid sale deeds, Mauja-Telpa was under Chapra Nagar Panchayat and the same was part of Urban Agglomerate of Chapra Town and the requisite verification/inquiry was not conducted by the Registering Officer before the registration of the aforesaid sale deeds and the stamp duty/registration fee was charged on the basis of the value of the land in question, as declared by the petitioners, however, the petitioners had declared incorrect value of the land in question and had engaged in under valuation of the market value of the land in question, while declaring the same in the sale deeds, however, verification was done by the then District Sub-Registrar, Saran at Chapra, only after a complaint was received regarding deficit stamp duty having been paid by the petitioners at the time of execution of the sale deeds in question and upon enquiry, it transpired that the petitioners had mentioned wrong classification/category of land in the aforesaid sale deeds, hence the matter was referred to the District Magistrate, Chapra under Section 47A (1) of the Indian Stamp Act, 1899. It is submitted that the Circle Officer, Chapra Sadar had reported vide letter dated 01.12.2004 that the land transferred through the aforesaid sale deeds is in the nature of residential land and in one case the nature is commercial.

5. The learned counsel for the respondents has also referred to Section 47A (1) of the Indian Stamp Act, 1899 as was existing at the time of reference in the year 2005, which is reproduced herein below:-

> *"47-A. Instrument of Conveyance. (1) Where the registering officer appointed under the Indian Registration Act, 1908 (XVI of 1908) while registering any instrument of conveyance, exchange, gift,*

> *partition or settlement, has reason to believe that the market value of the property which is the subject matter of such instrument has not been rightly set forth in the instrument, he may after registering such instrument refer the matter to the Collector for determination of the market value of such property and the proper duty payable thereon.*

6. Thus, it is submitted that the provision existing as in the year 2005 fully empowers the Collector to determine the market value of the property in question and assess the proper duty payable thereon upon a reference made by the Registering Officer even after registration of the instrument in question. It is also submitted that only by an amendment dated 03.05.2013 the aforesaid Section 47 A (1) has been amended and it has been postulated that the reference has to be made before the registration of the instrument in question. The learned counsel for the respondent has also submitted, by referring to a judgment rendered by the Hon'ble Apex Court in the case of ***State of Punjab & others vs. M/s. Mahajan***

Sabha reported in ***AIR 1996 SC 2153***, that limitation of two years prescribed in Section 47A of the Indian Stamp Act, 1899 would apply only in a case where the Collector takes action either *suo moto* or on receipt of reference from the Inspector General of Registration or the Registrar of the district appointed under the Registration Act, 1908, however, the said limitation prescribed in Section 47A has no application to the cases where a reference has been made by the registering authority.

7. I have heard the learned counsel for the parties and perused the materials on record and I find that the only issue raised by the petitioners in the present case is factual in nature i.e. to the effect that the nature of land, during the period when the sale deeds in question were registered in between the years 1998 to 2003, was agricultural and only after the year 2003 the same had, with the efflux of time, turned into residential/commercial, in nature. In this regard, this Court finds that the Circle Officer, Sadar

Chapra had conducted an inquiry and submitted his inquiry report dated 01.12.2004, wherein upon investigation, the nature of the land, with regard to which the aforesaid sale deeds have been executed, has been found to be residential in nature, whereafter the registering authority had made reference under Section 47A (1) of the Indian Stamp Act, 1899 to the District Magistrate, Chapra and subsequently the Inspector of Registration Offices, Saran Division, Chapra had conducted the hearing of the Stamp Case No. 5 of 2005, initiated against the petitioners, considered their submissions and passed a reasoned and a detailed order dated 04.12.2010 directing the petitioners to pay the deficit stamp duty, as mentioned therein within a period of 15 days. This Court also finds that the respondent no. 4 in the impugned order dated 04.12.2010 has specifically mentioned that he had also visited the spot and found the nature of land in question to be that of residential category and houses had been constructed over the same.

8. The aforesaid order dated 04.12.2010 was challenged by the petitioners by filing an appeal before the learned Court of Commissioner, Saran Division, Chapra, who had then registered a Stamp Revision Case No. 109 of 2010, which was then heard by the Ld. Commissioner at length & he upon finding the factual aspect of the matter to be correct, to the effect that the land in question falls under the residential category inasmuch as, in the area in question, where the land of the petitioners, pertaining to which the aforesaid sale deeds have been executed, are situated, several houses were found to have been constructed, had rejected the revision/ appeal filed by the petitioners.

9. This Court finds that no legal issue has been raised by the petitioners, however, only factual issues have been raised to the effect that the nature of the land in question, pertaining to which the aforesaid sale deeds have been executed, is agricultural in nature, however, on the contrary the actual fact is that the nature of the said land in

question has been found to be residential, not only by the Circle Officer, Chapra but also by the Inspector of Registration Offices, Saran Division, Chapra. In such view of the matter, the Inspector of Registration Offices, Saran Division, Chapra, after hearing the petitioners, has passed a reasoned and a detailed order dated 04.12.2010, in Stamp Case No. 5 of 2005, whereby the petitioners have been directed to pay the deficit stamp duty, within a period of 15 days and the same, upon being challenged in Appeal by the petitioners, has been upheld by the Commissioner, Saran Division, Chapra, by an order dt. 17.01.2012, hence this Court would not interfere with the concurrent finding of facts and re-apprise the evidence inasmuch as the present case is not a case where the findings are such that would shock the conscience of the Court, so as to warrant any interference. Reference in this connection be had to the judgments rendered by the Hon'ble Apex Court in the case of ***Addagada Raghavamma & Anr vs. Addagada Chenchamma & Anr.,*** reported in **AIR 1964 SC 136,** the one rendered by the Hon'ble Apex Court in the case of ***Reliance Infrastructure Limited vs. State of Goa,*** reported in **2023 SCC online SC 604,** the one rendered by the Hon'ble Apex Court in the case of ***T. Ramalingeswara Rao (Dead) Thr. LRs. & Anr. vs. N. Madhava Rao & Ors***., reported in ***(2013) 4 SCC 608*** and the one rendered by the Hon'ble Apex Court in the case of ***Rubi (Chandra) Dutta vs M/s United India Insurance Co. Ltd***, reported in **(2011) 11 SCC 269**.

10. Having regard to the facts and circumstances of the case and for the reasons mentioned herein above, I do not find any merit in the present writ petition, hence the same stands dismissed.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	AFR
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