IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17142 of 2015

==

Dinesh Yadav Son of Chhatari Yadav, R/o Village- Mosimpur, P.S.- Anchal Sadar, Darbhanga, District- Darbhanga.

... ... Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner, Darbhanga Division, Darbhanga.
3. The District Magistrate, Darbhanga.
4. The Dy. Collector Land REforms DCLR Darbhanga Sadar.
5. The Anchal Adhikari, Darbhanga Sadar.

... ... Respondent/s

==

Appearance :
For the Petitioner/s : Mr. Deepak Kumar, Advocate
For the Respondent/s : Mr. R.N.Dubey, A.A.G.-12

==

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

5 26-02-2024 Heard learned Counsel for the petitioner and the State.

2. *The present petition has been preferred for quashing the memo no. 185 dated 09.03.2015 issued by Respondent no. 4 contained in Annexure-1 by which he has directed the petitioner to deposit 10% stamp fee and registration cost amount a sum of Rs. 34,500/- on 07.03.2015 after expiry of the period of settlement of Gausa Ghat Hat Bazar Mela which is wholly illegally and further be pleased to direct the authority concern to return the settlement amount a sum of Rs. 3,45,500/- because petitioner has not collected money in aforesaid*

Sairat in absence of issuance of Parwana therefore such action of authority concern vide Annexure-l is illegal and wholly without jurisdiction.

3. The matter relates to the settlement relating to *Kartik Purnima*/ *Maghi Purnima* for the year 2013-14 related to Gausa Ghat Hat Bazar Mela in the District of Darbhanga.

4. Earlier the *sairat* was settled in favour of Rabindar Prasad Gupta for the year 2013-14 but one Uma Dhar Yadav challenged the sell which resulted into institution of CWJC No. 14491 of 2013. It was disposed of on 06.12.2013 and the Court having taken note of the fact that out of two Melas on '*Kartik Purnima*' and '*Maghi Purnima*', '*Kartik Purnima*' period has already crossed, the fresh bid will be only for the purpose of '*Maghi Purnima*' and the 50 per cent amount shall be payable by the person who succeeds in the bidding process (Annexure 2 to the petition).

5. The petitioner claims that subsequently, he became the highest bidder for the '*Maghi Purnima*' for the year 2013-14 and accordingly on 30.01.2014, he was directed to pay half of the Rs. 6,91,000/- amount i.e. Rs. 3,45,500/-. He submits that on the same day, the amount was deposited.

6. The '*Maghi Purnima Mela*' was to be held on

14.02.2014 but in view of the fact that he was not issued any '*Parwana*', he failed to collect taxes and as such was deprived of the fruits.

7. Learned Counsel submits that the petitioner was surprised to receive the letter vide memo no. 185 dated 09.03.2015 (Annexure 1 to the petition) by which direction was issued by the D.C.L.R., Sadar, Darbhanga to pay Rs. 34,550/- in the Nazarat as stamp/registration cost.

8. It is his contention that in absence of '*Parwana*', when he was prohibited from making any collection, there is no question of making payment of the said cost asked by the respondents.

9. A counter affidavit on behalf of the respondent nos. 3 to 5 put on affidavit on 15.12.2023 and filed in the Court after service of copy to the petitioner and this Court has taken note of paragraph nos. 6 and 7 of the said affidavit which read as follows:-

> *"6. That the petitioner has filed writ application for quashing the Memo No. 185 dated 09.03.2015 issued by D.C.L.R., Sadar, Darbhanga who has directed the petitioner to deposit 10% of stamp fee and registration cost amounting a sum of Rs. 34,500/- for on 07.03.2015 final settlement of Gausaghat Hat Bazar Mela and the petitioner also*

prays the court to direct the authority concern to return the half of settlement amount Rs. 3,45,500/- which he has deposited after entering into contract as highest bidder.

7. That the petitioner took settlement of sairat of Gausaghat Hat Bazar Mela on 30.01.2014 of as a highest bidder of the sairat and petitioner has deposited 50% of total Bid amount of Rs. 3,45,500/- and a letter no. 185 dated 09.03.2015 issued by DCLR, Sadar, Darbhanga in the name of petitioner also demanding 10% amount Rs. 34,500/- for stamp fee and registration cost. But the petitioner has not deposited the same and put forward many excuses for depositing Rs. 34,500/-. As such no parvana was issued. And petitioner in spite of not depositing stamp fee and registration during period of the Mela has collected toll and petitioner is defaulter on his part."

10. Learned State Counsel submits that the settlement was made in favour of the petitioner on 30.01.2014, as per his own contention, he deposited the amount on 30.01.2014 and thereafter went for collection in the '*Maghi Purnima Mela*' at Gausa Ghat on 14.02.2014.

11. It is his contention that had he not collected the amount, as he has made out a case, the petitioner would have immediately approached the High Court or any appropriate authority as he had deposited the amount on 30.01.2014 itself. Having failed to do so as he had actually collected the amount, he now cannot be allowed to take excuses for payment of the stamp/registration duty (Rs. 34,550/-).

12. Learned State Counsel submits that this is precisely the reason why he remained silent for one year and one month and only after he was nudged, on 09.03.2015, the writ petition filed.

13. The contention of the State Counsel as also the counter affidavit which has not been rebutted by way of any reply/rejoinder clearly proves the point put forward by him. On 14.02.2014, the '*Maghi Purnima*' took place, when the petitioner had already deposited Rs. 3,45,500/- and had it been a case that he was not allowed to collect taxes, the petitioner would have immediately approached appropriate authority and/or invoked the writ jurisdiction.

14. Thus his contention that the petitioner did not collected taxes as '*Maghi Purnima Mela*' day is fit to be rejected. It is not the case of the petitioner that he ever represented before the respondents for refund of amount deposited between February, 2014 to the year 2015.

15. This Court is fully satisfied with the contention of the State Counsel which also reflects in the counter affidavit that he had actually collected tax but trying to default in making the payment of stamp/registration duty.

16. In the opinion of the Court, the writ petition is misconceived, ill advised, frivolous only to deprive the State Exchequer of Rs. 34,550/- and as such, the same is fit to be dismissed with cost.

17. Accordingly, the writ petition stands dismissed with a cost of Rs. 5,000/- payable to the Patna High Court Legal Services Committee within a period of four weeks from today.

18. List this case under the heading 'To Be Mentioned' after six weeks for perusal of compliance of the order.

(Rajiv Roy, J)

Neha/-

U			