

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12784 of 2023

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Sudha Rani W/o Rajendra Prasad Yadav, Resident of Madhepura, Ward No. 2,
P.S.- Madhepura, District- Madhepura ... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms, Patna.
 2. The Inspector General of Registration, Govt. of Bihar, Patna.
 3. The Collector-cum-District Magistrate, Madhepura.
 4. The Assistant Inspector General of Registration, Koshi Division, Saharsa.
 5. The Sub-Registrar, Sub-Registry Office, Madhepura.
 6. The Certificate Officer, Madhepura. ... Respondents
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Appearance :

For the Petitioner : M/s Shailendra Kumar Singh & D.N. Tiwari,, Advs.
For the Respondents : Mr.Rewati Kant Suman, AC to SC XI

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

5 14-11-2024 Heard the parties.

2. The present writ petition has been filed for the following relief(s) :

(i) For quashing the order contained in Memo No. 31 dated 16.3.2018 passed by Assistant Inspector General, Koshi Ras Pramandal, Saharsa by which he has passed an ex-parte order in terms of Section 47-A(7) by which the petitioner has been directed to deposit Deficit stamp duty to the tune of Rs.1,14,268.00 and 10% interest thereof to the tune of 11,427/- with regard to a Sale deed executed in favour of petitioner on 22.12.2017.

(ii) For quashing the order contained in Memo No. 10 dated 15.07.2023 passed in Certificate Case No. 05/2021-22 by the District Certificate Officer,



Madhepura by which the petitioner has been directed to deposit deficit Stamp duty along with fine and interest the tune of 4,30,420/- within a month.

(iii) For direction upon the respondent authority to conduct a fair and transparent enquiry of the property for which sale deed has been executed in favour of the petitioner on 22.12.2017.

(iv) To pass an order/s for which the petitioner is entitle in the eye of 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. 4 herein, has passed an order vide Memo No. 31 dated 16.03.2018 (Annexure 2) under Section 27 of the Indian Stamp Act without putting the petitioner on notice or calling for any explanation. The Respondent No. 4 has passed the order directing the petitioner to pay the deficit stamp duty. Counsel for the petitioner has stated that the said order passed by the 4th 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 also



illegal, bad and arbitrary, therefore, prayed that the order passed by the Respondent No. 4 vide order, dated 16.03.2018 may be set aside.

4. In the counter affidavit filed by the Respondents No. 4 the allegation made by the petitioner that no notice was served on the petitioner before passing the order by the 4th Respondent has not being denied. This Court as well as the Hon'ble Supreme Court in a catena of cases, time and again have reiterated that any authority before passing any orders have to necessarily put the party who is likely to be effected by the said order 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 any adverse order is likely to be passed 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 involuble missing in the particular case.

5. Having regard to the above mentioned facts and circumstances, the order, dated 16.03.2018 passed by the Assistant Inspector General of Registration, Koshi Division, Saharsa (Respondent No. 4) and the order vide Memo No. 10



dated 15.02.2023 passed by the District Certificate Officer, Madhepura, (Respondent No. 6) are both set aside. The matter is remanded back to the 4th Respondent for passing order afresh.

6. It is needless to mention that before passing any orders, the Respondent No. 4 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 before passing any order the petitioner shall be given an opportunity of hearing. 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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