IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14794 of 2021

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Musrat Jahan Wife of Abdul Kudus Resident of Village- Chawani, P.S.- Bettiah, District- West Champaran.

... ... Petitioner/s

Versus

1. The State of Bihar through I.G. Registration, Govt. of Bihar, Patna.
2. The Certificate Officer, Supaul.
3. The Sub-Registrar, Bettiah, West Champaran.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Nirmal Kumar, Adv.
For the Respondent/s	:	Md. Khurshid Alam (Aag12)

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL JUDGMENT
Date : 28-01-2025

Heard the learned counsel for the parties.

2. This writ petition has been filed for the following relief(s):-

> *1. That this is an application for issuance for issuance of writ in the nature of certiorari to quash the order dated 26.06.2015 as passed in Stamp Case No. 179/2014-15 by which the respondents have directed to pay the deficit court fee stamp along with 10% interest within 60 days through Bank challan of State Bank of India failing which the certificate case will be filed before the Collector, Muzaffarpur of recovery of said amount under the Public Demand Recovery Act and any other writ are writs which the*

petitioner is entitled and further directed to the Respondent to consider the case of the petitioner on the basis of nature of land which has shown as agricultural land when there is no any market in the said locality and adjacent to the land or no any house has been constructed near the land of the petitioner when the said land come as agriculture land as per khatiyan and further commanding the respondents not to interefere with nature of land when it is agricultural land any other relief or relief which the petitioner is entitled to save and except as other.

3. The facts in brief for the purpose of deciding the present writ petition are that the petitioner has purchased the land in Khata No. 808 bearing Plot No. 3041 of village Bettiah, Thana No.28 admeasuring 0.75 Decimal and 0.28 Decimal vide registered Sale Deed No. 194049/14 and Deed No. 19302/14 respectively, both dated 21.11.2014 from the original owner. That the registration of deed was completed on 21.11.2014. Thereafter, a notice has been issued by the Respondent No. 3 dated 13.07.2015 stating that the valuation of the land is more than the one stated in the document i.e. Rs. 12,06,000/- and accordingly the deficit stamp fee will come to Rs. 9,62,720/- along with penalty of Rs. 96272/- and registration fee of Rs. 2,40,680/- the total along with the stamp fee will come to Rs. 12,99,672.00/-. A perusal of

the notice dated 13.07.2015 reveals that Camp Court Stamp Case (Mudrank Case) No. 179/2014-15 was initiated against the petitioner and decided on 26.05.2015. Further, the petitioner thereafter has received notice dated 13.02.2017 directing him to deposit an amount of Rs. 20,69,848/- on or before 26.02.2017 failing which certificate proceedings may be issued for recovery of the said dues amount. Learned counsel for the petitioner has stated that the land which was purchased by the petitioner is an agricultural land and the registration of the document was done after payment of the full stamp duty and verification of the subject land. That though similarly situated persons have also purchased land in the very same Khesra Number, the authorities have not initiated any proceedings against them. Further, it is stated that the initiation of the case at the behest of the Respondent No. 3 is without any legal basis and contrary to the provisions of the Act more particularly ***Section 47 (A) (1)*** of the ***Indian Stamp (Bihar Amendment) Act 15 of 1988***. Learned counsel has stated that it is only the Collector who can *suo moto* or on reference initiate any action after the registration of the document that too within a period of two years from the date of registration but in this particular case, the petitioner has found that the initiation has been done by the Assistant Inspector General at the instance of the Sub

Registrar, Bettiah. Learned counsel has stated that the procedure adopted by the respondents is contrary to the well established principles of law and also the judgment of this Hon'ble Court in the case of ***Shahnaz Begam vs. The State of Bihar & Ors.*** reported in ***2018(2) PLJR 299***. Learned counsel, therefore, has prayed this Hon'ble Court to set aside the impugned notice and to allow the present writ petition.

4. In the counter affidavit filed by the respondents, it is specifically stated that the authorities on inquiry found that the land which has been purchased by the petitioner is classified as non- agricultural and on finding that the valuation of the land was shown less than the rate shown in the "Gair Aawasiya" (Non-Residential) and on finding that the land was valued at Rs. 1.26 crores whereas the petitioner has shown the value of the land at only Rs. 5.66 lakhs. Therefore, the authorities have come to a conclusion that the stamp duty paid by the petitioner is less and have initiated necessary action for recovery of deficit stamp duty. That the petitioner was put on prior notice by the Assistant Inspector General of Registration, Tirhut Division, Muzaffarpur, however the petitioner has failed to appear before the said authority, therefore, necessary orders were passed. Learned counsel has stated that the authorities have followed the procedure

as contemplated under the Act and the order passed by the Assistant Inspector General of Registration, Tirhut Division, Muzaffarpur does not suffer from any illegality or perversity which warrants any interference by this Hon'ble Court. Learned counsel has, therefore, prayed this Hon'ble Court to dismiss the present writ petition.

5. The supplementary affidavit has been filed by the petitioner stating that after receipt of the show cause notice from the office of the Assistant Inspector General of Registration, Tirhut Division, Muzaffarpur, the petitioner has filed his objections but the same were not considered by the authority in its order dated 26.05.2015.

6. In order to appreciate the issue involved in the present case, it is necessary to reproduce the provisions of the Act more particularly ***Section 47 (A) (1)*** which reads as under:

> *"47(A)(1) Where the registering officers appointed under the Registration Act, 1908 while registering any instrument of conveyance, exchange, gift, partition or settlement is satisfied that the classification of the property and/ or the measurement of the structure contained in the property which is subject matter os such instrument has been set forth wrongly or the market value of the property, which is subject matter of such instrument has been set forth at a lower rate than the Guideline Register of*

Estimated Minimum Value prepared under the rules framed under the provision of this Act, he shall refer such instrument before registering it to the Collector for determination of the proper market value of such property and the proper duty payable thereon:

Provided that where the market value of the property of the instruments described above has been fixed at an amount which is not less than the value prescribed in the Guideline Register of Estimated Minimum Value prepared under the rules framed under the provisions of this Act, but the registering officer has reasons to believe that the market value of the property which is the subject matter of such instrument has not been rightly set forth or it is higher than the estimated minimum value, he after registering such instrument, shall refer it by assigning proper reasons to the Collector for determination of proper market value of the property and the proper duty payable thereon.

6. This Court in ***Shahnaz Begam vs. The State of Bihar & Ors.***, reported in ***2018 2 PLJR 299*** has held as under:

"6. It, thus, follows that the Registering Authority can only refer the matter before registering it to the Collector for determination of the proper market value of such property and the proper duty payable thereon. In the present case, it is quite clear that the registration was alredy effected and it was oly thereafter that the reference

was made to the Collector/AIG, Registration for determination of the correct value. Furthermore, if at all, a proceeding was to have been initiated after registration by the Collector suo motu within the provisions of Section 47A(3), the same could have been done within a period of two (2) years from the date of registration of such instrument already referred to him under sub-section (1). Provisions as stated in Section 47A (3) is as follows:-

"The Collector may suo motu within two years from the date of registration of such instrument not already referred to him under sub-section (1), call for and examine the instrument for the purpose of satisfying himself as to the correctness of the market value of the property which is the subject matter of such instrument and the duty payable thereon and if, after such examination, he has reason to believe that the market value of such property, has not been rightly set forth in the instrument, [or is less than even the minimum value determined in accordance with any rules made under this Act] he may determine the market value of such property and the duty as aforesaid in accordance with the procedure provided for in sub-section (2). the difference, if any, in the amount of duty, shall be payable by the person liable to pay the duty:

Provided that nothing in this sub-section shall apply to any instrument registered before the date of commencement of the Indian Stamp (Bihar Amendment) Ordinance, 1986)."

7. Admittedly, as seen from the above provisions of the act and also the law laid down by this Hon'ble Court, neither the Respondent No. 3 i.e. the Sub-Registrar, Bettiah nor the Assistant Inspector General of Registration, Tirhut Division, Muzaffarpur have the jurisdiction to initiate any action against the petitioner for payment of any deficit stamp duty after the registration of the document. It is only the Collector who is having the *suo moto* powers to initiate any action based on the report of the Sub Registrar. But as seen from the record, the impugned order dated 26.06.2015 has been passed by the Assistant Inspector General of Registration, Tirhut Division, Muzaffarpur who does not have the jurisdiction to pass the order. Once it is held that the initial order is bad, the subsequent initiation of the certificate proceedings against the petitioner for recovery of the defect stamp fee also has to be necessarily held to be bad. Therefore, the initiation of the certificate proceedings against the petitioner based on the orders passed by the Assistant Inspector General of Registration, Tirhut Division, Muzaffarpur dated 26.06.2015 in Stamp Case No. 179/2014-15 is quashed and the order dated 28.10.2017 is also set aside.

9. The present writ petition is accordingly allowed to extent indicated.

(A. Abhishek Reddy , J)

Gauravkr/-

AFR/NAFR	NAFR
CAV DATE	N/A
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