IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1583 of 2014

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1. Ashok Kumar Singh Son of Jagdhari Singh Resident of Village Post - Bakhorapur, P.S. Barhara, District - Bhojpur, Ara
2. Santosh Kumar Singh Son of Jagdhari Singh Resident of Village Post - Bakhorapur, P.S. Barhara, District - Bhojpur, Ara

... ... Petitioner/s

Versus

1. The State of Bihar
2. The Director General Registration, Nibandhan Utpad And Madhya Nishedh Department
3. The Inspector, Registration Office, Patna Division, Patna
4. The Collector, Bhojpur, Ara
5. The District Registrar, District Registration Office, Ara Sadar, Ara, Bhojpur
6. The District Deputy Registrar, Registration Office, Bhojpur, Ara
7. The Circle Officer, Ara, Bhojpur Null Null
8. The Member, Board Of Revenue, Old Secretariat, Bailey Road, Patna

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Radha Mohan Pandey, Advocate
For the Respondent/s	:	Mr. AC to GP 20

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL JUDGMENT

Date : 30-01-2025

Heard Mr. Radha Mohan Pandey, learned counsel for the petitioners and learned AC to GP 20 for the State.

2. The present writ petition has been filed challenging the order dated 23.09.2013 passed by the Member, Board of Revenue in Case No. 33 of 2013 registered under the provisions of Section 56 of the Indian Stamp Act, 1899 whereby the Member, Board of Revenue was allowing the appeal filed at

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the instance of the District Survey Star, Ara (Bhojpur) has issued direction to treat the plot registered by the petitioners under the sale deed dated 19.01.2010 to be falling under the residential category and not under the category of irrigated land.

3. Learned counsel for the petitioners submits that pursuant to the order dated 23.09.2013 passed by the Member, Board of Revenue in Case No. 33 of 2013, the Chief Controlling Authority under the Indian Stamp Act, a certificate proceeding was drawn against the petitioners for realization of the deficit Court fee quantified of Rs. 1,06,710/- (Rs. One lakh six thousand seven hundred and ten only) giving rise of Certificate Case No. 06 of 2013-14.

4. A notice under Section 7 was issued by the District Certificate Officer, Bhojpur at Ara to the petitioners requiring them to file their response and the petitioners have challenged the same through I.A. No. 4521 of 2014 and in the meantime, the petitioners have also filed the response before the Certificate Officer under Section 9 of the Act.

5. Learned counsel for the petitioners submits that the entire proceedings has been questioned on the ground that the issue stood concluded after the reference being made by the Registering authority under Section 47A was returned by the

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Inspector with his report requiring the petitioners to deposit an additional amount of Rs. 1,600/- as per enhanced valuation. The petitioners were to deposit Rs. 9,200/- by way of stamp duty. The differential stamp duty was deposited by the petitioners on 15.03.2010 and the document in question was finally registered thereafter in favour of the petitioners. He further submits that the District Sub Registrar had initiated the proceeding under Section 56 of the Stamp Act after two years of the depositing of the aforesaid deficit amount and the proceeding after two years under Section 56 of the Stamp Act is unsustainable and is also barred by limitation. Apart from that the Chief Controlling Authority i.e. Member, Board of Revenue has passed the order without any evidence to suggest the land in question of the petitioners was residential.

6. Learned counsel for the State has filed counter affidavit stating therein that after registration of the deed in question on 13.03.2010 and after that in the year 2012 audit team of Accountant General, Bihar audited the refer cases of District Registration Office, Bhojpur at Ara and found that the disposal of 10 documents including the deed of the petitioners has resulted revenue loss of Rs. 10.23 lakhs and there was no enquiry ever made by the Inspector of Registration Office, Patna

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Division, Patna. The objection of the audit team was intimated to the Inspector General of Registration, Bihar, Patna vide letter dated 31.07.2012 by the Deputy Accountant General (Revenue Sector) Bihar. And pursuant to the aforesaid, the Inspector General of Registration, Bihar has directed the District Sub Registrar, Bhojpur, Ara to file an appeal before the Chief Controlling Revenue Authority i.e. Board of Revenue, Bihar under Section 56 of the Stamp Act, and justify the actions of the respondents and submits that the other persons bearing same Ward, Mauza, Thana, Khata and Khesra through Deed No. 6143 registered on 11.06.2010, Deed No. 7283 registered on 08.07.2010, Deed No. 10366 registered on 18.10.2010, Deed No. 11382 registered on 25.11.2010 and Deed No. 11927 registered on 08.12.2010 and each of the documents the seller described the land as residential and received consideration value on the rate of residential land. So the impugned order dated 23.09.2013 passed by the Member, Board of Revenue, Patna in Case No. 33 of 2013 registered under the provision of Section 56 of the Stamp Act, 1899 is correct and no interference is required.

7. Having heard learned counsel for the parties and perused the materials available on record, it has been found

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that without any basis, the authority has passed the impugned order for realization of the deficit Court fees quantified of Rs. 1,06,710/- (Rs. One lakh six thousand seven hundred and ten only) and it appears from the record that the land in question is mentioned as irrigated category (Sinchit). Apart from that the petitioners have already filed the deficit court fees quantified at Rs. 9,200/- by way of stamp duty and thereafter, the land in question of the petitioners was finally registered on 15.03.2010 and the present proceeding has been initiated after two years of the registration of the documents in question. Apart from that the respondents have not produced any chit of paper which suggests that the land in question of the petitioners have come under the purview of the residential category.

8. Accordingly, the order dated 23.09.2013 *(Annexure-1)* as well as Certificate Case No. 06 of 2013-14 are hereby set aside and the writ petition stands allowed.

(Rajesh Kumar Verma, J)

Vanisha/-

AFR/NAFR	NAFR
CAV DATE	N/A
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