

In The Court of Commissioner, Saran Division, Chapra
Stamp Appeal No. 22/2018
Jai Gopal Singh
Vrs.
The State of Bihar & ors.

ORDER

The instant appeal application is directed against the impugned order passed by Asstt. Inspector General of Registration, Saran Division, Chapra in Stamp case No. 55/2012, The state of Bihar Vrs Jai Gopal Singh on 15.06.2013. This appeal petition has been preferred before this Court pursuant to the direction contained in order dated 12.12.2017 passed by Hon'ble High Court while disposing of CWJC No. 16441/2016.

The brief facts of the case are that a proceeding vide Stamp case No. 55/2012 was initiated by AIG-Registration, Saran Division, Chapra U/S 47(1) Indian Stamp Act against a registered document No. 11182/2012 for realization of market value and payable stamp fee thereon with respect the land registered in favour of the present appellant through gift deed. Act pursuant to a proposal to that effect sent by Dist. Sub-Registrar, Siwan. Further case is that a registered deed of gift has been executed in favour of the appellant on 21.08.2012 with respect of some piece of land appertaining to different khata and plot Nos. having total area 01 bigha 8 kaha 14 dhur situated in Mairwadham and Langarpura Mouza of Siwan district. Subsequently it was found that deficit stamp fee and registration charges with regard to the said registration have been paid. Then the Dist-Sub-Registrar, Siwan reported the matter to the AIG, Registration, Saran for realization of the said deficit fee. The learned AIG, accordingly initiated a case vide stamp case No. 55/2012 and finally vide order dt. 15.06.2013 directed the party to deposit Rs. 9,48,040 (Nine Lakh forty eight thousand forty rupees) as deficit stamp fee and Rs. 94,804/- (Ninety four thousand eight hundred four) as penalty. Feeling aggrieved by the said order, the petitioner approached the Hon'ble High Court by preferring CWJC No. 16441/2016 which was subsequently disposed of with a direction to the appellant to approach the appellate authority. This led to coming of this case before this Court.

Heard the learned counsel for the appellant.

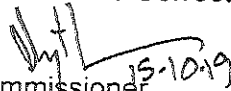
The learned counsel appearing on behalf of the appellant while assailing the impugned order, submitted that the same is against the law and facts of the case and also based on conjectures and surmises. The learned counsel further argued in detail about the total area of land registered, its location and prevailing market price and strongly submitted that the stamp duty and registration fee paid by him is proper as per the valuation of the instrument. He also submitted that learned lower Court has not considered that the appellant was not noticed in stamp valuation case No. 55/2013 pending before the Asstt. Inspector General, Registration, Saran at Chapra (Respondent No.1). He argued that learned lower Court has passed the impugned order in mechanical way and learned lower Court remained totally fail to consider this legal aspect that the registration office, on the spot enquiry had accepted the deed vide report dated 18.08.2012. He also argued that learned lower Court also remained fail to consider this legal aspect that the amount of stamp duty and registration charges were ascertained and specified by the Registry office itself and according to said charges were duty paid. The document was admitted and was subsequently duly registered. In the circumstances, the enhancement of stamp duty and registration charges, subsequent to the registration of the deed


in unwarranted and unsustainable in law. He also submitted that the learned lower Court has also not considered this facts that the initiation of certificate proceeding is bad in law, being not in terms of the Act. He also argued that the learned lower Court has also remained fail to consider this facts that stamp valuation proceeding as well as certificate case proceeding both are not maintainable on the ground of non-joinder of parties in as much the co-vendee namely Vibhuti Narayan Singh has not been made party in either of any case, which is also bad in law. He lastly submitted as the impugned order is legally not correct, the same is fit to be set aside.

Having heard the learned counsel for the appellant and on perusal of the impugned order it is seen that the appellants have intentionally undervalued the instrument just to evade the stamp fee thereby making loss of Govt. revenue. I find that the learned Court below has passed a reasoned and proper order and their assessment of actual value of the gifted land seems to be correct and proper as the said land is in close proximity to the main road and is of residential nature also. The only defence of the learned counsel for the appellant is that the impugned order has been passed without giving him any notice thereby denial of natural justice. This plea can not be taken into account as it is seen from the impugned order that despite valid notice sent to the appellant the appellant failed to file his presence before the authority to defend his case. So far as the valuation of the said land is concerned the same has been done logically and after spot inspection by the authority. There is no denial of the fact that under valuation of the document has been done by suppressing the real fact about the actual nature of land, its location and its nature and this has certainly been done knowingly and intentionally to evade the stamp duty and registration charge thereby causing revenue loss to the state exchequer. The learned counsel for the appellant failed to point out any specific illegality in the impugned order.

For the aforementioned reasons and discussion made therein the impugned order of AIG, Registration, Saran Division, Chapra dt. 15.06.2013 passed in stamp case No. 55/2012 is upheld and this appeal petition being devoid of any merit is dismissed accordingly.

Dictated and Corrected by me.


15-10-19
Commissioner
Saran Division, Chapra.


15-10-19
Commissioner
Saran Division, Chapra.