

In The Court of Commissioner, Saran Division, Chapra

Stamp Appeal No. 215/2014

**Sampati Devi
Vrs.
State of Bihar
ORDER**

30-01-2016 -- The instant appeal petition has been filed pursuant to the direction contained in the order passed on 07.07.14 by the Hon'ble High Court while disposing of CWJC No. 9676/2013. The petitioner in the said writ petition has challenged the order dt. 26.02.2013 passed by the Assistant Inspector General of Registration, Saran Division, Chapra in Stamp case No. 51 of 2012 whereby the registering authority has valued the property at Rs. 1,22,00,000 and directed the petitioner to deposit the differential amount of Stamp amounting to Rs. 2,24,080 within sixty days of the order failing which the same would be payable with interest 5% per month.

The brief facts of the case are that one Johania Devi W/o Late Brahmdeo Prasad and Umashankar Prasad S/o Late Brahmdeo Prasad, R/o Vill-Tarwara, P.S.-G.B. Nagar, Dist-Siwan executed a gift deed on 22.09.2012 for contain lands mentioned in the gift deed. The total value of the property was assessed as Rs. 85,32,000 as mentioned in the deed and the appellat has paid Rs. 5,11,000 as Stamp duty at the time of presentation of deed. Thereafter, the Sub-Resister, Siwan formed opinion that the valuation mentioned in the instrument was not correct and he impounded the document and referred the said instrument for determining the market value u/s 47(A) of the Indian Stamp Act. Then the Assitt. Inspector General of Registration initiated a proceeding vide Stamp case No. 51/2012 in which the petitioner filed his documents in her support but on order dt. 26.02.2013 was passed directing the petitioner to pay additional Rs. 2,24,080. Feeling aggrieved by the said order the petitioner filed a writ case before Hon'ble High Court but subsequently the instant appeal has been filed without complying with the statutory provision of the Act relating to deposit of 50% of the enhanced fee through challan in the Govt. Treasury. The petitioner's plea is that as this appeal has been preferred pursuant to the direction of Hon'ble High Court so that requirement is not necessary.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the petitioner while assailing the impugned order of AIG, Registration raised a preliminary question that as per the provision contained in the Indian Stamp Act, the Collector of the District now acts as Registrar and it is who has been empowered under sub-section (2) of section 47 A of the Act to hold inquiry, determine the market value of the property as well, the amount of duty payable by the person after giving notice to the party. He further submitted that in the present case the AIG, Registration has determined the market value of the property mentioned in the instrument who has no authority in law to hold inquiry and fix the value of the property mentioned in the instrument. He also argued that the petitioner appeared before the AIG, Registration and also drew his attention on the document issued from the office of C.O. Pachrukhi under memo No. 52 dt. 30.01.2013 under RTI query wherein it has been mentioned that the land bearing plot No. 1563 is situated in village Tarwara, is an agricultural land. He further said that it is relevant to note that from the said R.S. plot No. 1563 an area of 44 decimal land was transferred earlier in favour of one Sunil Kumar Singh by Umashankar Singh on 29.08.2012 and determined valuation paid at that time was taken as example and the valuation of the land was calculated on the same basis and it was paid in the present gift deed also. He further submitted that neither any inquiry has been made nor any



report has been called for from the competent authority regarding the nature of the land or about the value of the land and in the absence of any inquiry and report, the impugned order has been passed by AIG, Registration which is illegal and arbitrary. The learned counsel lastly prayed that as an injustice has been done to the petitioner by completely ignoring the procedure and disregarding the documents filed by the petitioner in the support of his contention in the present case and hence the impugned order is fit to be set aside.

The learned G.P. on the other hand, submitted that if any mistake occurs in the assessment of the value of the land in the past, the same can not be taken as an example to determine the market value of other land.

Considering the facts and circumstances of the case, material available on records, arguments advanced in support and documents referred to by the learned counsel for the petitioner and on perusal of the impugned order, it is seen that the main contention of the petitioner is that the value of the land transferred was determined on the basis of its nature and as the R.S. plot No. 1563 is found to be of agricultural nature, as per the report of C.O. Pachrukhi so its valuation can not be determined wrongly by holding that the said land is of commercial use and its nature has been changed. The other plea of the petitioner is that 44 decimal land from the said R.S. plot No. 1563 was transferred earlier on 29.08.2012 and the value of the land determined at that time was taken as the value of the land transferred through gift from the same plot on 22.09.2012 and as such there is nothing wrong in the calculation of value and the AIG, Registration without any power to determine the market value of the land has determined the value which makes the order illegal and arbitrary. Thus, it is clear that at one hand the concerned C.O. supplies information to the petitioner under the RTI Act about R.S. plot No.1563 holding that the said land is agricultural land whereas the AIG, registration is of the view that the said land is of commercial value. It is also seen that part of land from the same R.S. plot No. 1563 when transferred to another person earlier, the value determined was less and when part of the same plot is transferred through gift just after a month the value of the said land is stated to be much higher as the same land supposed to have changed into commercial land and its value was determined at commercial rate.

For the aforementioned reasons and discussion made therein, the impugned order of AIG, Registration, Saran Div. is set aside. But, in view of the conflicting findings of fact about the nature of land by different authority and subsequent assessment of its value it is felt necessary that the entire matter needs fresh consideration. As such the case is remitted to the AIG, Registration to consider the matter afresh in accordance with law.

Dictated and Corrected by me.


30.1.16
Commissioner,

Saran Division, Chapra


30.1.16
Commissioner,

Saran Division, Chapra