

(2002) 01 PAT CK 0029
In the Patna High Court
Case No : C.W.J.C. No. 11392 of 2001

Deo Raj Kumar Prasad

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 15-01-2002

Acts Referred:

Registration Act, 1908 — Section 30(2)

Citation : (2002) 1 PLJR 600

Hon'ble Judges : Shiva Kirti Singh, J

Bench : Single Bench

Advocate : Indushekhar Pd. Sinha and Shashi Nath Jha, for the Appellant; S.S. Naiyar Hussain, for the Respondent

Judgement

Shiva Kirti Singh, J.—Heard the parties.

2. Petitioner is aggrieved by the action of the concerned Respondents in not allowing mutation of land purchased by the Petitioner through registered sale-deed. The reluctance of the authority to recognize the registered sale deed and allowing mutation admittedly arises only on the ground that the sale deeds were registered out-side the State of Bihar in a Presidency Town as per provisions in Section 30(2) of the Indian Registration Act, 1908.

3. At the time of earlier hearing under the heading admission three questions were formulated by this Court in order dated 14-9-2001. The first question was whether after a Division Bench judgment in similar case, are the authorities justified in insisting for similar orders in every individual case. The stand of the authorities is that they shall not insist for orders in every individual case and shall follow the law laid down by the Division Bench where ever the facts warrant such an action. The second question was whether once the registration charges and stamp duty have been paid by the purchaser out side the State, whether the State of Bihar is justified in asking for payment of such charges again. On this issue the stand of the State is that the State shall not ask the Petitioner to pay registration charges and only differences of stamp duty shall be charged from

him. In other words, the stamp duty which the Petitioner had paid at the time of registration out side the State shall be adjusted against the stamp duty which he was liable to pay for registration in the State of Bihar and on payment of difference of such stamp duty, the authorities have agreed to allow the prayer for mutation in favour of the Petitioner. The Petitioner has agreed to pay the difference on stamp duty by way of concession so that mutation in his favour may not be delayed due to delay in disposal of this case for deciding second question of law.

4. The third question was whether the law permitting registration in Presidency Town requires amendment in view of federal structure provided by the Constitution of India. This question need not be gone into because admittedly the law has undergone a change in the month of September, 2001 itself.

5. In view of aforesaid discussions now there does not appear any difficulty in allowing Petitioner's prayer for mutation over the lands purchased by him on the condition that Petitioner, as agreed, shall pay the differences in the stamp duty. The Respondent No. 4, the Circle Officer, Patna, Sadar is directed to consult the registration authorities and make a demand with regard to difference of stamp duty from the Petitioner within three weeks from the date of production/communication of a copy of this order before Respondent No. 4. Thereafter the Petitioner should deposit the amount demanded on account of difference in stamp duty and order for mutation must be passed by the concerned authorities within two weeks from the date of deposit of such amount.

6. With the aforesaid directions, this writ application is disposed of.