IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.815 of 2015
Along with
Interlocutory Application No. 3477 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 10002 of 2013

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1. The State of Bihar.
2. The Commissioner, Magadh Division, Gaya.
3. The Inspector of Registration, Magadh Range-cum-Collector, Gaya.
4. The District Sub-Registrar, Aurangabad.
5. The Land Reforms Deputy Collector, Aurangabad.
6. The Circle Officer, Aurangabad.

.... Appellant/s

Versus

1. Anand Bhushan. S/o Birendra Prasad Singh. Resident of Mohalla - Mahadeva House, Bypass Road, Aurangabad, P.S.- Aurangabad Town, District - Aurangabad.
2. Sanoj Kumar Singh. S/o Binayak Singh. Resident of Mohalla - New Area Aurangabad, P.S. - Aurangabad Town, District - Aurangabad.

.... Respondent/s

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Appearance :
For the Appellant/s : Mr. Chitranjan Sinha, PAAG-2 with
Mr. Niraj Kumar Sinha, AC to PAAG-2
For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)
Date: 16-08-2016

Re.: Interlocutory Application No.3477 of 2015

The application is for condonation of delay of 57 days in filing of the appeal.

For the reasons mentioned in the application, we find that sufficient cause is made out for condonation of delay. Consequently, the delay of 57 days in filing of the appeal is condoned.

Interlocutory Application stands disposed off.

Re.: Letters Patent Appeal No. 815 of 2015

The order dated 08.01.2015 passed by the learned Single Bench is the subject matter of challenge in the present Letters Patent Appeal. The learned Single Bench set aside the order passed by the Commissioner on 14.02.2013 holding that the respondent no. 1 has to deposit 50% of the deficit amount of stamp duty before his appeal can be entertained. The learned Single Bench held that the condition of deposit of 50% of the deficit amount of stamp duty is applicable if the Collector *suo motu* returns a finding that the instrument is deficient in stamp duty but if the Registering Officer has found that the instrument is insufficiently stamped then the condition of deposit of 50% of the deficit amount of stamp duty on the instrument does not arise.

A perusal of Section 47-A as inserted by Bihar Finance Act, 2008 shows that sub-section (6) contemplates that before filing an appeal under sub-section (4), the aggrieved party shall deposit 50% amount of the payable as deficient stamp duty. The provision under sub-section (4) provides that any person aggrieved by an order of the Collector under sub-section (3) may appeal to the Commissioner concerned. The order under sub-Section (3) is passed by the Collector *suo motu* within two years from the date of registration of instrument.

The order passed under Sub-Section 2 of Section 47A of the Act is not such an order which warrants deposit of 50% of the deficient stamp duty.

In the present case, the Collector has not exercised *suo motu* jurisdiction after registration of the instrument but it was the Registering Authority who at the time of registration of the document found that the instrument is undervalued. Therefore, the reference was made under sub-section (1) of Section 47-A of the Act. Such proceedings lead to an order under sub-section (2) of Section 47-A of the Act and such provision does not contemplate pre-deposit of 50% deficient stamp duty.

In view thereof, we do not find any error in the order passed by the learned Single Bench which may warrant interference in the present Letters Patent Appeal and is accordingly, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P. Kumar/Anjani

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A