

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 4491 of 2016

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1. Chania Devi Wife of Mahendra Rai.
 2. Jagati Devi, Wife of Rajendra Rai @ Bhulla Rai, Both residents of village - Fatehpur Kamali, P.O. - Mahnar.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Inspector General of Registration, Bihar, Patna.
3. The Commissioner, Tirhut Division, Muzaffarpur.
4. The Inspector of Registration, Tirhut Division, Muzaffarpur.
5. The Collector, Vaishali, Hajipur.
6. The District Sub - Registrar, Vaishali at Hajipur.
7. The Sub - Registrar, Mahnar, District Vaishali.
8. The Circle Officer, Mahnar, District - Vaishali.
9. Raghunandan Jha, Son of Late Radhey Krishna Jha.
10. Ram Lochan Jha, Son of Late Naina Lal Jha.
11. Kameshwar Jha, Son of Late Baldeo Jha, All no. 9 to 11 are residents of village - Ishaquepur, P.S. - Mahnar, District - Vaishali.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shivjee Singh, Advocate
For the State : Mr. Suresh Kumar, A.C. to G.P. 1

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 14-09-2017

Heard learned counsel for the petitioners and the State.

2. The petitioners have moved the Court for the following reliefs:

“i) To issue an order/orders, direction /directions, writ/writs in the nature of certiorari to set aside the order dated 09.11.2015 passed by the learned Assistant Inspector of Registration (Respondent no. 4) as contained in Annexure-5 in case no. 1531 of 2000-01 whereby he has determined the deficient Stamp duty of Rs.2,50,832/- and he has also fined of Rs. 25,084/- for hiding the evidence and has directed the petitioners to pay total Rs. 2,75,916/- through Bank Challan in State Bank of India, Mahnar



Branch failing which the petitioner would be liable to pay interest at the rate of 5% per month.

ii) To hold and declare that the land purchased by the petitioner in the year 2000 relating to Thana no. 540, Ward no. 6, Khata no. 325, 113, 838, Khesra no. 1778, 1809, 2030, Anchal Mahnar Mauza Fatehpur Kamali is "Dahnal" in nature.

iii) For granting of any other relief/reliefs, direction/directions for which the petitioners are found to be entitled for."

3. At the very outset, learned counsel for the petitioners submitted that the petitioners have moved the Court without availing the statutory appellate forum provided under Section 47-A of the Indian Stamp Act, 1899 (hereinafter referred to as the 'Act').

4. Learned counsel for the petitioners drew the attention of the Court to Annexure-4 of the writ petition, which is copy of order dated 08.01.2015 passed by a co-ordinate Bench of this Court in **C.W.J.C. No. 10002 of 2013** in the case of **Anand Bhushan vs. The State of Bihar and Ors.**, in which the Court has interfered and remanded the matter to the authority concerned.

5. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds substance in the preliminary objection raised by learned counsel for the State. When the statute itself provides for an appeal, normally, the party is required to invoke such statutory forum before straightaway moving to the High Court under its extraordinary and



prerogative writ jurisdiction under Article 226 of the Constitution of India. In the present case, no compelling circumstances exist so as to persuade the Court to invoke such jurisdiction at this stage. Moreover, in the judgment of the co-ordinate Bench relied upon by learned counsel for the petitioners in the case of **Anand Bhushan** (supra), the petitioner had moved this Court against the appellate order passed under Section 47-A of the Act.

6. Accordingly, the writ petition stands disposed off with liberty to the petitioners to move before the appropriate forum under Section 47-A of the Act against the order impugned in the present writ application. If the petitioners file an appropriate application before the said forum, within one month from today, the same shall be considered on merits, without being prejudiced by the present order.

(**Ahsanuddin Amanullah, J.**)

P. Kumar

AFR/NAFR	
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