IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12555 of 2016

==

Diwakar Prasad Singh, S/o- Late Bindeshwari Prasad Singh, Resident of Village- Langarpur, P.O.+P.S.- Barh, District- Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through the Inspector General of Registration, Department of Registration, Bihar at New Secretariat, Patna.
2. The Asst. Inspector General of Registration, Patna Commissionaries at New Secretariat, Patna, Department of Registration, Bihar.
3. The Collector cum Registrar, Department of Registration, Patna District at Patna.
4. The Executive Officer, Barh Nagar Parishad, Barh.
5. The Circle Officer, Barh.

... ... Respondent/s

==

Appearance :

For the Petitioner/s : Mr. Dr. Anshuman

For the Respondent/s : Mr. Anil Kr. Upadhyaya- SC 2

==

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date : 20-11-2018

Heard Mr. Sanjay Kumar, learned counsel for the petitioner and Mr. Revtikant, learned AC to SC 11 for the respondent-State.

The present writ application has been filed for quashing the order dated 01.06.2016, passed in Stamp Case No. 58 of 2016, by Respondent No.2, the Assistant Inspector General Registration, Patna Division, Patna, as contained in Annexure-5, whereby the petitioner has been directed to deposit deficit stamp to the tune of Rs. 7,90,640/- along with the penalty to the tune of Rs. 79,064/-, total Rs. 8,69,704/- within a period of sixty days, failing which, he has been directed to pay interest at the rate of 5% per month on deficit stamp.

The factual matrix of the case is that the petitioner purchased a piece of land, appertaining to Revenue Thana No. 56, Khata No. 47 and 65, Plot No. 127, 128 and 129, total mesuring an area of 56.6 decimals, situated at Mauza Talibpur, Circle Barh, District Patna, through registered sale dated 05.12.2014. However, subsequently, reference was made by the Sub-Registrar, Barh under Section 47(A) of the Indian Stamp Act.

Since there is provision of appeal under Rule 13 of the Bihar Stamp (Prevention of Under-Valuation of Instruments), Rules, 1995 (hereinafter referred to as 'the Rules, 1995') against the order passed under sub-section (2) of Section 47-A of the Indian Stamp Act, 1989 (hereinafter referred to as 'the Act') this Court is not inclined to interfere. However, in the interest of justice, this Court permits the petitioners to prefer an appeal before the appellate authority, i.e. the Divisional Commissioner, Munger Division, Munger within a period of three weeks from the date of receipt or production of a copy of this order.

It is expected from the appellate authority that if such an appeal is filed against the impugned order dated 01.06.2016, passed in Case No. 58 of 2016, as contained in Annexure-5, within a period of three weeks from the date of receipt/production of a copy of this order, along with an application for condonation of delay in filing of appeal, then the appellate authority may consider the same, within a period of six weeks thereafter, keeping in view the fact that writ application was pending before this Court.

In view of the ratio laid down in the case of Anand Bhusan Vs. State of Bihar and Ors. (CWJC No. 10002 of 2013) which has been affirmed by a Division Bench of this Court in L.P.A. No. 815 of 2015 (The State of Bihar and Ors. Vs. Anand Bhushan and Anr.), it is made clear that the petitioners are not required to deposit 50% amount of payable deficient stamp duty as required under Section 47-A (6) for filing of appeal under Section 47-A (4) of the Act against an order passed by the Collector under Section 47-A (3) of the Act, since in the present case the appeal would lie under Rule 13 of the Rules, 1995 against the order passed under Section 47-A (2) of the Act which does not require deposit of 50% amount of payable deficient stamp.

For the next four weeks, let no coercive steps be taken against the petitioners in pursuance to the impugned order dated 01.06.2016 passed in Case No. 58 of 2016, as contained in Annexure-5, Accordingly, the present writ application is disposed off with the observation and liberty aforementioned.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	