IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18768 of 2017

==

Mosmat Sudama Devi, Wife of Late Sheo Shankar Prasad, Resident of Mohalla- Purani Gudari, Turha Toli, Ward No. 04, Police Station- Bettiah Town, District- West Champaran.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The Assistant Inspector General, Registration Tirhut Range, Muzaffarpur, Bihar.
3. The District Magistrate, Cum, District Registrar, West Champaran at Bettiah.
4. The District Sub Registrar, West Champaran at Bettiah.
5. Smt. Jyoti Jaiswal, Wife of Heera Lal Jaiswal, Resident of Mohalla- Purani Gudari, Turha Toli, Ward No.-04, Police Station- Bettiah Town, District- West Champaran.

... ... Respondent/s

==

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar No.-7
For the Respondent/s : Mr. Manish Kumar, AC to AAG 6

==

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 11-10-2018 Heard learned counsels for the parties.

The present writ application has been filed for quashing the order dated 28.2.2017, passed in Case No.220 of 2015-16, as contained in Annexure-2, by Assistant Inspector General, Registration, Tirhut Range, Muzaffarpur, whereby, on reference being made for the instrument being under valued due to wrong classification by Sub-Registrar, Bettiah under Section 47A(1), the petitioner has been directed to make payment of deficit stamp duty to the tune of Rs.104880/- and penalty to the tune of Rs.10488/-, total amount being Rs.1,15,368/- and interest at the rate of 5% per month on non-deposit of the same within a period of sixty days.

Without going into the merits of the case, 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, the petitioner is given liberty to prefer an appeal before the appellate authority, i.e. the Divisional Commissioner, Tirhut Division, Muzaffarpur 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 28.2.2017 in Case No.220 of 2015-16within a period of three weeks from the date of receipt/production of a copy of this order, along with prayer of stay and an application for condonation of delay in filing of the 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.

It is, however, made clear that the petitioner is not required to deposit 50% amount of payable deficient stamp duty as required under Section 47-A (6) of the Indian Stamp Act 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.

Accordingly, the writ application is disposed of with the aforesaid observation/direction.

(Dinesh Kumar Singh, J)

anil/-

U			