

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17681 of 2017

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Saleha Jia @ Bibi Saleha Jia W/o Jiayul Haque, R/o Mohalla- Purani Bazar,
Ram Nagar, P.O.+ P.S.- Ram Nagar, District- West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through Inspector General of Registration, Bihar, Patna.
2. The Commissioner Tirhut Division, Muzaffarpur.
3. The Assistant Inspector General of Registration, Tirhut Division, Muzaffarpur.
4. The District Sub Registrar, Bagha, District- West Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Akhileshwar Kumar Shrivastva, Adv.

For the Respondent/s : Mr. Pawan Kumar, AC to GA1.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

02/ 22-03-2018

Heard Mr. Akhileshwar Kumar Shrivastava,

learned counsel for the petitioner and Mr. Pawan Kumar, learned
AC to GA-1.

The present Writ application has been filed
for quashing the order dated 11.08.2017 passed in Stamp Appeal
No. 80 of 2017 by respondent no. 2, Commissioner, Tirhut
Division, Muzaffarpur, as contained in Annexure-6 to the writ
application, whereby the petitioner's appeal has been dismissed
since the appeal was filed without annexing the certified copy or
the true copy of the order under appeal dated 16.05.2016 passed
by respondent no. 3, Assistant Inspector General of Registration,
Tirhut Division, Muzaffarpur in Case No. 06 of 2015-16. Further



prayer has been made for quashing the order dated 16.05.2016 passed in Case No. 06 of 2015-16 by respondent no. 3, Assistant Inspector General of Registration, Tirhut Division, Muzaffarpur, as contained in Annexure-4, whereby without complying the principles of natural justice, as incorporated under Section 47-A(2) of the Indian Stamp Act (Bihar Finance Act, 2008), it has been held that the sale deed registered on 14.03.2015 is under valued. Hence, the petitioner has been directed to make payment of Rs.43,560/-.

However, counsel for the petitioner, at present, confines his prayer only to the extent of quashing the appellate order, as contained in Annexure-6, as the appeal of the petitioner has not been heard on merit. Moreover, if the appeal was not filed along with the certified copy or true copy of the order under appeal it was latches on the part of the counsel who filed the memo of appeal before the Appellate Authority and for the same the petitioner should not suffer.

Prima facie, it appears that by virtue of the provision of appeal in the statute, the petitioner is entitled to file an appeal. It is imperative on the part of the appellate forum to see that the petitioner should not suffer due to the latches on the part of the counsel.



In the circumstances, in the interest of justice, without expressing any opinion with regard to the merits of the case, the appellate order dated 11.08.2017 passed by respondent no. 2, Commissioner, Tirhut Division, Muzaffarpur in Stamp Appeal No. 80 of 2017, as contained in Anenxure-6, is, hereby, quashed. The petitioner is permitted to file appeal along with the certified copy of the order before the Appellate Authority within a period of four weeks from today along with the application for condonation of delay. It is expected from the Appellate Authority to consider the same in view of the fact that the appeal was not heard on merit and it was dismissed on a technical ground, in the interest of justice.

Accordingly, this writ application is disposed of.

(Dinesh Kumar Singh, J)

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