

CWP No. 15616 of 2018 (O&M)
Date of decision : 10.09.2018

versus

It is averred in the petition that the petitioners have executed a sale deed on 02.08.2017 but when it was presented to the Sub Registrar, the same was not received by him. It is further averred that the Sub Registrar was obliged to refuse in writing otherwise the petitioners cannot invoke the provisions of Section 72 of the Act. After the notice was issued, the respondents have filed their reply. Learned State counsel has referred to a decision of Delhi High Court in the case of **Sheo Murti Shukla v. State (Govt. of NCT of Delhi)**, 2012(1) ILR (Delhi) 40, to contend that refusal to accept a document for registration is as good as non-registration which attracts the provisions of Section 72 for the purpose of filing appeal. There

is a procedure prescribed in part XII of the Act which stipulates that there must be reasons for refusal and for that purpose, reasons are required to be recorded only then petitioner can file application under Section 72 of the Act. Learned State counsel has further referred to the decision of Delhi High Court in Sheo Murti Shukla's case (supra) in which there is a reference of the Division Bench decision of the Bombay High Court in the case of **Hussain Abdul Rahman and Co. vs. Lakhmichand Khetsey AIR 1925 Bom 34** in which it has been held that there is no difference between refusal of registration and refusal to accept a document for registration . It has been further held that the ultimate remedy is in terms of either to file a civil suit under Section 77 of the Act. Thus, in view of the aforesaid decision in the case of Sheo Murti Shukla (supra), the present petition is hereby disposed of by relegating the petitioners to avail the remedy under Section 72 of the Act by filing an appeal before the competent authority and in case any such appeal is filed within a period of 15 days from the date of receipt of a certified copy of this order, the same shall be decided on merits.

(RAKESH KUMAR JAIN)
JUDGE

10.09.2018

sunita

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No