IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3420 of 2018

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Asim Rahman S/o Ashfaque Rahman, R/o Pent House, Federal Plaza Apartment, Federal Colony, P.O. and P.S.- Phulwarisharif, District- Patna.

... ... Petitioner/s

Versus

1. The Assistant Registration Inspector General and Anr
2. Sub Registrar Phulwarisharif, Patna, P.O. and P.S.- Phulwarisharif, District- Patna.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Pawan Kumar Singh, Adv.
For the Respondent/s : Mr.Manish Kumar, AC to AAG-6

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

The present writ petition has been filed for quashing the letter no. 2468 dated 02.11.2017 issued by the Sub Registrar as also the letter dated 25.01.2018 issued by the Assistant Registration Inspector General, Patna Division, Patna.

2. The learned counsel for the petitioner has submitted that the case instituted under Section 47A(1) of the Indian Stamp Act, 1899 is not maintainable inasmuch as the sale deed has already been registered on 7.9.2017 and the provision being referred to i.e. Rule 9 (2) of the Bihar Registration Rules, 2008 relates to pre- registration stage when the presentant chooses to present the document with stamp duty less than that permissible as per MVR.

3. I have heard the learned counsel for the parties and gone through the materials on record and I find that the notices have been issued under Rule 9(1) of the Bihar Stamp (Prevention of Under Valuation of Instruments), 2015 and not under the provisions of the Bihar Registration Rules, 2008. The aforesaid Bihar Stamp (Prevention of Under Valuation of Instruments), 2015 have been framed in exercise of the power conferred by Section 75 of the Indian Stamp Act, 1899 for the purposes of Section 47 A of the Indian Stamp Act, 1899.

4. At this juncture, it would be relevant to reproduce Section 47A of the Indian Stamp Act, 1899 herein below:-

> (1) Where the Registering Officer appointed under the Registration Act, 1908 (Act 16 of 1908) while registering any instrument of conveyance, exchange, gift, partition or settlement is satisfied that the market value of the property which is the subject matter of such instrument has been set forth at a lower rate than the Guide Line Register of estimate minimum value prepared under the rules framed under the provisions of this Act, he shall refer such instrument, before registering it, to the Collector for determination of the proper market value of such property and the proper duty payable thereon:
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> Provided that where the market value of the property of the instruments described above has been fixed at an amount which is not less than the value prescribed in the Guide Line Register of estimated minimum value prepared under the rules framed under the provisions of this Act, but the Registering Officer has reasons to believe that the market value of the property which is the subject matter of such instrument has not been rightly set forth or it is higher than the estimated minimum value, he, after registering such instrument, shall

refer it by assigning proper reasons to the Collector for determination of proper market value of the property and the proper duty payable thereon.
(2) On receipt of a reference under sub-section (1), the Collector shall, after giving one month's time to the parties for making their representation and after holding an enquiry determine the market value of the property which is the subject matter of such instrument and the duty as aforesaid. The difference, if any, in the amount of duty, shall be payable by the person liable to pay the duty:
Provided that no such person shall be required to pay any amount to make up the difference if the difference between the consideration or the market value as set forth in the instrument [or is less than even the minimum value determined in accordance with any rules made under this Act] and the market value determined by the Collector does not exceed 10 per cent of the market value so determined.
(3) The Collector may suo motu within two years from the date of registration of such instrument not already referred to him under sub-section(1), call for and examine the instrument for the purpose of satisfying himself as to the correctness of the market value of the property which is the subject matter of such instrument and the duty payable thereon and if, after such examination, he has reason to believe that the market value of such property, has not been rightly set forth in the instrument, or is less than even the minimum value determined in accordance with any rules made under the Act he may determine the market value of such property and the duty as aforesaid in accordance with the procedure provided for in sub-section (2). The difference, if any, in the amount of duty, shall be payable by the person liable to pay the duty;
Provided that nothing in this sub-section shall apply to any instrument registered before the date of commencement of the Indian Stamp (Bihar Amendment) Ordinance, 1986.
(4) Any person aggrieved by an order of the Collector under sub-section (3) may appeal to the Commissioner concerned of the administrative

division. Such appeal shall be preferred within 60 days of the order and shall be heard and disposed of by the Commissioner.
(5) For the purpose of this Act, Market value of any property shall be estimated to be the price which in the opinion of the Collector or the appellate authority, as the case may be, such property would have fetched or would fetch, if sold, in the open market on the date of execution of the instrument of conveyance, exchange, gift, partition or settlement.
(6) Before filing an appeal under sub-section (4), the aggrieved party shall deposit 50% (fifty percent) amount of the payable deficient stamp duty chargeable on the market value of the property as determined by the Collector.
(7) If after determination of the proper market value, it is established that the parties have deliberately concealed the actual description of property or the market value of the property or any other facts and circumstances affecting the chargeability of the duty as required under Section 27 of the Indian Stamp Act, 1899 [as amended by Indian Stamp (Bihar Amendment) Act, 1988], the Collector, or in cases where appeal has been filed, the Appellate Authority, may impose a fine equal to 10% (ten per cent) amount of the deficient stamp duty.
(8) If an appeal is not filed under sub-section (4) of Section 47A, an interest at the rate of 5% (five per cent) per month shall be leviable on the deficient amount of stamp duty if it is not deposited within sixty days from the date of order passed by Collector.
(9) If an appeal is filed as prescribed in sub-section (4) of Section 47A, interest at the rate of 5% (five per cent) per month shall be payable from the date of the order of the Appellate Authority for deposit of deficient stamp duty if it is not paid within sixty days of such order.
(10) If the amount of deficient stamp duty is not paid within sixty days from the date of the order of the Collector in case an appeal is not filed against the said order, or within sixty days from the date of the order of the Appellate Authority as the case may

be, the amount of deficient stamp duty alongwith the amount of interest shall be recovered by the Collector as prescribed under Section 48 of the Act.

5. A bare perusal of Section 47A of the Indian Stamp Act, 1899 would bear it out that the exercise to be undertaken in connection with an instrument, with regard to the correctness of the market value of the property, which is subject matter of such instrument as also the duty payable thereon can also be taken subsequent to registration of an instrument, hence this Court does not find any infirmity in issuance of notice to the petitioner herein vide the impugned letter dated 25.01.2018 pursuant to the registration of Case No. 404 of 2017 wherein the petitioner has already been given liberty to present his defence, thus, I do not find any merit in the present writ petition, therefore, the same is dismissed.

(Mohit Kumar Shah, J)

Tiwary/-

AFR/NAFR	NAFR
CAV DATE	N/A
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