IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17645 of 2016

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Srimati Sushila Devi Wife of Sri Raj Kumar Pal, Resident of Mohalla- Digha Ghat, Post and Police Station- Digha, District- Patna. ... ... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary Cum-Inspector General of Registration. The Registration Department, Government of Bih
3. The Divisional Commissioner, Patna Division, Patna.
4. The District Magistrate, Collectorate, Patna.
5. The District Sub-Registrar, Collectorate, Patna.
6. The Registration fee Refund Officer, Legal Section, Collectorate Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Mahesh Prasad
For the Respondent/s	:	Mr.Anil Kumar Sinha-Ga1

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL ORDER

2 08-04-2019 Heard learned counsel for the petitioner and the counsel appearing on behalf of the State.

The instant writ application has been filed by the petitioner for a direction to the respondents to refund Rs. 2,26,700/- deposited by the petitioner as registration fee.

Learned counsel for the petitioner submits that registration fee was deposited by the petitioner but the land owner is not inclined to register the shop in favour of the petitioner and as such the petitioner has approached the respondents for refund of the amount on account of frustration of contract for sell of the shop.

In the instant case, a counter affidavit has been filed on behalf of the respondents wherein stand has been taken that

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there is no dispute that an amount of Rs, 2,26,700/- was deposited by the petitioner towards registration fee. There is no dispute as to the entitlement for refund of money. The only dispute raised in the counter affidavit is that the petitioner has not submitted representation before the Commissioner, Patna Division, Patna for refund of challan. There is statement in para-7 that on 14.5.2016 a letter was sent to the petitioner through speed post but the speed post returned unanswered.

In para-8 it has been stated that six months time has elapsed and application was to be submitted before the Commissioner within one year.

In para-9 the respondents have stated that the Joint Commissioner, Department Enquiry, Patna Division, Patna informed the respondents that application for refund of money deposited for stamp duty has not been submitted by the petitioner in the Office of Commissioner and now there is gap of one year and therefore the application for refund is not acceptable.

This writ petition was filed on 22.10.2016. The deposit of amount was made on 22.5.2014 and from Annexure-2, it appears that through registered post application was sent on 5.12.2015. The other document Annexure-3 indicates that

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application was sent through registered post for refund of money on 23.12.2015 and 6.1.2016.

Considering the aforesaid documents on record which has not been disputed in the counter affidavit, the Court is of the considered view that the attitude adopted by the respondents in refund the amount in the peculiar facts and circumstances of the case is unsustainable.

Since the amount was deposited towards registration fee and under the scheme of the Act refund is admissible, the Court directs the respondents to take steps for refund of the registration fee of the petitioner amounting to Rs. 2, 26,700/- within a period of sixty days from the date of receipt/production of a copy of this order.

If the amount is not refunded within the time frame indicated hereinabove, the entire amount will carry interest at the rate of 9 per cent.

With the aforesaid, the present application is allowed and disposed of.

(Anil Kumar Upadhyay, J)

Ravi/-

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