

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14249 of 2019

=====

Mukti Nath Tiwari, Son of Narbadeshwar Nath Tiwari, Resident of Village-
Chandwa, Post Office- Chandwa, Police Station- Ara Nawada, District-
Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Assistant Inspector General of Registration Patna Division, District
Registration Office, Patna Sadar, Patna.
3. The District Magistrate Bhojpur.
4. The District Registrar Bhojpur, Ara.
5. The District Sub- Registrar Bhojpur, Ara.
6. The Certificate Officer Bhojpur, Ara.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Gopal Govind Mishra
For the Respondent/s : Mr.Vivek Prasad (GP-7)

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 08-11-2019 Heard learned counsel for the petitioner and learned
counsel representing the State.

Petitioner, in the present case, is seeking quashing of
the order dated 15.05.2017 passed by the Assistant Inspector
General Registration, Patna Division, Patna in Case No.134 of
2016 by which a direction has been issued to recover a sum of
Rs.40,34,800/- within 60 days from the petitioner failing which
interest @ 5% per month would be recovered.

Learned counsel for the petitioner submits that now a
certificate proceeding has been initiated for recovery of a sum of



Rs.80,68,800/- in which notice has been received by the petitioner on 15.06.2019. Prior to the said receipt of notice of the certificate case, the petitioner had no knowledge of passing of the impugned order as contained in Annexure-2 series to the writ application. Learned counsel submits that the petitioner has obtained a true copy of the impugned order (Annexure-2 series) under Right to Information Act.

It is submitted that the impugned order is an ex-parte order passed by the Assistant Inspector General (Registration) as the petitioner could not appear before the said authority due to his illness during the said period. In this connection, he has relied upon the doctor's prescription contained in Annexure-1 series saying that the petitioner was under treatment of the doctor since 01.08.2016 till 25.05.2017 i.e. on the date of issuance of the certificate for left side Hemiparesis as outdoor patient. He was advised bed rest during treatment with drugs and physiotherapy/exercise. Learned counsel submits that no doubt the petitioner had received the notice in Case No.134 of 2016 which was registered under Section 47-A of the Indian Stamp Act, 1899 (hereinafter referred to as the 'Act of 1899') in respect of the sale deed registered on 10.06.2016, but because of his illness the petitioner was unable to appear before the



Assistant Inspector General Registration. The petitioner admits that twice notice was received by him. Learned counsel submits that, in the given facts and circumstances of the case, the ex-parte order be set aside and the petitioner may be given liberty to contest the matter before the Assistant Inspector General (Registration), Patna Division, Patna.

On the other hand, Mr. Vivek Prasad, learned counsel for the State submits that the Assistant Inspector General (Registration) has passed the impugned order by virtue of having been notified as competent authority to exercise the power of the Collector under sub-section (2) of Section 47-A of the Act of 1899. Learned counsel submits that the prescription of doctor enclosed with the writ application does not inspire confidence inasmuch as no significant material has been brought on record to show that the petitioner was actually suffering from Hemiparesis during all these periods. Neither any test report confirming the same nor any proof of purchase of medicine etc. during all these periods have been enclosed with the writ application and the prescription seems to have been prepared only for the purpose of vaguely explaining the reasons as to why the petitioner could not contest the case before the competent authority. Learned counsel submits that now a certificate



proceeding has been initiated after two years and only then the petitioner has awoken from the deep slumber and has approached this Court.

Having heard learned counsel for the petitioner and the State and on a careful perusal of the materials available on the record, this Court finds substance in the submissions of learned counsel for the State. The Court is not ready to accept Annexure-1 series which are in the nature of certificate of one Dr. Sadhu Sharan Pandey. The certificate and the prescription are not supported by any medical test report confirming that the petitioner was suffering from Hemiparesis. Only two reports on the examination of blood shows that ESR of the petitioner was increased on 01.08.2016, but no finding of any test report has been placed before this Court to prima-facie demonstrate that the petitioner had suffered from Hamiparesis. At the same time no proof of purchase of medicine has been brought on record. These are the reasons as to why the Court cannot accept the vague and casual explanation of the petitioner that he was unable to participate in the proceeding in Case No.134 of 2016 because of the illness.

Having said so, this Court finds that there is no rebuttal of the contention of the petitioner that the impugned



order was not made available to him on earlier occasion and he had received the same only under Right to Information Act which is evident from memo no.295 dated 03.05.2019 (Annexure-2 series).

In that view of the matter, while granting liberty to the petitioner to avail the statutory remedy of appeal in terms of sub-section (4) of Section 47-A of the Act of 1899 within a period of 30 days from today, this Court directs that the part of the impugned order by which the Assistant Inspector General Registration has directed that interest @ 5% per month shall be levied after expiry of 60 days, shall not be given effect to and it will be subject to outcome of the appeal. It will be open for the petitioner to make a prayer for grant of interim protection in the certificate proceeding before the appellate authority.

For a period of 30 days from today, no coercive action shall be taken against the petitioner.

With the aforesaid observations and the liberty granted to the petitioner, this writ application is disposed off.

(Rajeev Ranjan Prasad, J)

arvind/-

U			
---	--	--	--

