**IN THE HIGH COURT OF JUDICATURE AT PATNA**
**Civil Writ Jurisdiction Case No.22561 of 2019**

Ram Dhwaja Singh S/o Late Kailash Singh Resident of Village- Amaon, P.s.- Chainpur, Distt.- Kaimur (Bhabua)

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Registration, Govt. of Bihar, Patna
2. The Inspector General of Registration Govt. of Bihar, Patna
3. The Assistant Inspector General of Registration Patna Division, Ist Floor, Chhajjubagh, Patna
4. The District Sub-Registrar Kaimur (Bhabua)
5. The Registration Officer Kaimur (Bhabua)
6. The Circle Officer Chainpur, P.s.- Chainpur, Distt.- Kaimur (Bhabua)
7. Gautam Bind S/o Sri Mukhram Bind Resident of Village- Sirbit, Tole-Kharhaniya, P.o.- Amawan, P.s.- Chainpur, Distt.- Kaimur (Bhabua)

... ... Respondent/s

with

**Civil Writ Jurisdiction Case No. 22783 of 2019**

Gautam Bind, Son of Sri Mukhram Bind, Resident of Sirbit, Tola-Kharhaniya, P.O.-Amaon, P.S.-Chainpur, District-Kaimur (Bhabua).

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Registration, Govt. of Bihar, Patna.
2. The Inspector General of Registration, Govt. of Bihar, Patna.
3. The Assistant Inspector General Registration, Patna Division, First Floor, Chhajjubagh, Patna.
4. The District Sub-Registrar, Kaimur (Bhabhua).
5. The Registration Officer, Kaimur (Bhabhua).
6. The C.O., Chainpur, P.S.-Chainpur, District-Kaimur (Bhabhua).
7. Sri Ram Dhwaja Singh, Son of Late Kailash Singh, Resident of Mauza-Amaon, P.S.-Chainpur, District-Kaimur (Bhabhua).

... ... Respondent/s

**Appearance :**
(In Civil Writ Jurisdiction Case No. 22561 of 2019)
For the Petitioner/s : Mr.Yogendra Kumar
For the Respondent/s : Mr.Vivek Prasad (GP-7)
(In Civil Writ Jurisdiction Case No. 22783 of 2019)

For the Petitioner/s : Mr.Yogendra Kumar
For the Respondent/s : Mr. Patanjali Rishi, AC to AAG-6
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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH**

ORAL ORDER

7 07-01-2020 The petitioner in CWJC No. 22561 of 2019 is respondent No.7 in CWJC No. 22783 of 2019 and *vice versa*. This is not in dispute that both of them had presented before the District Sub-Registrar, Kaimur at Bhabhua two deeds for registration effecting mutual transfer of the lands, which they held as described in the writ application. In their respective deeds of exchange, they had described the nature of land to be agricultural in nature and had not paid any Stamp duty for registration. The documents were registered on 01.03.2019, as is evident from the supplementary counter affidavit filed on behalf of the respondents. It transpires that after the registration of deeds the Sub-Registrar made a reference to the Collector under the Act informing him that the market value of the property was wrongly set forth in the said two deeds. The said reference of the Sub-Registrar led to registration of two separate cases viz, Case No. 71 of 2019 and 72 of 2019 before the AIG Registration, Patna Division, who is the Collector for the purpose of Section 47A of the Indian Stamp Act, 1889 (hereinafter referred to

as ‘the Act’). The Collector has passed two separate orders in the aforesaid two cases on 29.06.2019, holding the petitioners liable for payment of a sum of Rs. 1,81,440/- in both the cases and the said amount has been directed to be paid as deficient duty, for registration of the said two deeds. The said orders passed in Case No. 71 of 2019 and 72 of 2019 have been put to challenge in the present writ applications. It is evident from the impugned orders that the Collector has indicated that there is provision of appeal, which the petitioners could invoke against the impugned orders after payment of 50% of the duty determined by the Collector.

2. Learned counsel appearing on behalf of the petitioners has submitted that if no duty was paid at the time of the presentation of the deeds for their registration, the Sub-Registrar was not required to register the document and, therefore, the documents ought to have been returned back to the petitioners. He has submitted that the duty, which has been determined is excessive and even subsequent registration of the sale deeds in respect of the lands adjacent to the lands of these petitioners in question have been allowed at much lower rate on

payment of much less amount of duty then what has been determined by the Collector in the impugned orders. According to him, the documents cannot be said to have been registered in view of what has been indicated in the impugned orders, whereby the Sub-Registrar has been asked to take steps for registration of the documents.

3. It is evident, on reading of the impugned orders and the provision under Section 47A of the Act that power under sub-section (3) of the said Section has been exercised by the Collector. The Collector has jurisdiction to exercise such powers *suo motu* under sub-section (3) after registration of the deeds of instrument. Sub-section (4) of Section 47A of the Act provides for an appeal against any order passed by the Collector under sub-section (3) of the Act before the Commissioner, to be preferred within sixty days of the order. The submission made on behalf of the petitioner that there has been non-compliance of the requirements under sub-section (1) and sub-section (2) of Section 47A of the Act while passing the impugned order is wholly misconceived for the reason that the said sub-sections deal with situation prior to registration of a document. In the present case the

document was registered on 01.03.2019 itself as is evident from the supplementary counter affidavit filed on behalf of the Respondents State of Bihar along with which photostat copies of the registered deeds have been brought on record.

4. Learned counsel appearing on behalf of the petitioners has relied on a decision of this Court in case of **Anand Bhushan Vs. State of Bihar reported in 2015(2) PLJR 243** to contend that the petitioners may not be compelled to pay 50% of the duty determined by the Collector. The said decision, in my opinion, cannot have any application in the facts and circumstances of the present case inasmuch as in the said case reference was made by the Sub-Registrar to the Collector under sub-section (1) of Section 47A of the Act. In the present case the documents have already been registered. The plea which the petitioners have taken with reference to the decision of this Court in case of **M/s NLBD Marketing Private Limited Vs. State of Bihar reported in 2012(2) PLJR 253** can be taken by him before the appellate authority, if according to him the lands in question are agricultural in nature and determination of duty by the

Collector is incorrect on any ground.

5. These applications are, accordingly, disposed of with a liberty to the petitioners to prefer appeal under Section 47A of the Act. If the petitioners do so, within one month from today, the appeal under Section 47A (4) shall be decided on merits without raising any question of limitation, since the petitioners were pursuing their remedy before this Court by filing present writ application.

**(Chakradhari Sharan Singh, J)**

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