

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5542 of 2020

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Ram Ishwar Bhagat Son of Ram Satan Bhagat, Resident of Village- Paroha
Tole Mald, P.S. Dumara, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the I.G. Registration, Bihar, Patna.
2. The Commissioner, Tirhut Division, Muzaffarpur.
3. The Assistant I.G. Registration, Tirhut Division, Muzaffarpur.
4. The District Magistrate-Cum-Registrar, Registration of District, Sitamarhi.
5. The District Sub- Registrar, Sitamarhi.
6. The Circle Officer, Belsand, District- Sitamarhi.
7. The Revenue Karamchari, Belsand, District- Sitamarhi.
8. Shyambabu Singh, Son of late Bishwanath Singh, Resident of Village and
Mauza- Machhi, P.S. Belsand, District- Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Devendra Kumar, Advocate
For the Respondent/s : Mr. Mritunjay Kumar, AC to AAG-6

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 30-11-2021 Heard Mr. Devendra Kumar, learned counsel for the

petitioner and Mr. Mritunjay Kumar, learned AC to AAG-6 for

the State.

2. The petitioner is aggrieved by the order dated
30.7.2019 passed by the Commissioner, Tirhut Division,
Muzaffarpur, in Stamp Appeal Case No. 117 of 2019.

3. The brief fact of the case is that sale deed in
question was executed by Respondent No. 8 namely,
Shyambabu Singh in favour of the petitioner pertaining to a
piece of land bearing *Khata No. 581, Khesra No. 1610* having



an area of 21 decimals situated in the village *Bhorha Mal*, *Thana No. 47* in *Belsand Anchal*, Distt. Sitamarhi. The sale deed was produced for registration on 6.1.2016 before the District Sub Registrar, Sitamarhi, disclosing the nature of land (Bith-II Agricultural) showing the value of the land to be Rs.3,10,000/- and upon the said value, the stamp duty was paid by the petitioner. After registration of the sale deed and in view of the departmental instruction, the District Sub Registrar, Sitamarhi, directed the Sub Registrar, Belsand, Sitamarhi, to make physical verification of the land in question regarding its nature and after physical verification, the Sub Registrar, Belsand, submitted his report stating therein that the nature of the land was found to be residential in category (*kha*) and on the basis of its nature, the value of the land was assessed to be Rs.10,67,500/-. As such, as per the provision of the Stamp Act, a sum of Rs.45,450/- was found as deficit stamp. An order was passed by the District Sub Registrar, Sitamarhi, in Case No. 126 of 2016-17, directing the petitioner to deposit deficit stamp duty along with interest. The petitioner was directed to deposit a sum of Rs.49,995/- as deficit stamp duty along with interest by order dated 29.9.2018 and in pursuance thereof the demand notice was served upon the petitioner. The petitioner had challenged the said order



before the Commissioner, Tirhut Division, Muzaffarpur, in Stamp Appeal Case No. 117 of 2018.

4. Learned counsel for the petitioner submits that the learned Commissioner, Tirhut Division, instead of deciding the appeal of the petitioner on merit, has dismissed the same on technical ground of limitation and failed to appreciate the cause shown in condonation of delay petition. Learned counsel further submits that in the interest of justice, the appeal may be directed to be heard on its own merit by the learned Commissioner, Tirhut Division.

5. On the other hand, learned counsel for the State submits that learned Commissioner after taking into consideration the condonation of delay petition has come to the conclusion that there is delay of five months in preferring appeal and, accordingly, the same has been dismissed on the point of limitation.

6. Counter affidavit has been filed by the State in the Court itself. Let it be kept on the record.

7. I have heard learned counsel for the parties and have gone through the materials available on record.

8. From perusal of the impugned order passed by the Commissioner, Tirhut Division, it appears that the appeal of the



petitioner has been dismissed on technical ground of limitation. It further appears that a prayer for condoning the delay was also filed by the petitioner.

9. Taking into consideration the nature of dispute, the interest of justice demands that the appeal of the petitioner ought to have been decided on its own merit and not on technical ground of limitation.

10. Accordingly, the order dated 30.7.2019 (Annexure-6) passed by the District Sub Registrar, Sitamarhi, is quashed and the matter is remitted back to the Commissioner, Tirhut Division, Sitamarhi, with a direction to decide the appeal of the petitioner on its own merit after giving him opportunity of hearing within a period of three months from the date of receipt/production of a copy of this order.

11. With aforesaid observation and direction, this writ application stands disposed of.

(Anil Kumar Sinha, J)

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