## IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.595 of 2024**

**In**

**Civil Writ Jurisdiction Case No.17380 of 2023**

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1. The State of Bihar through the Principal Secretary, Registration Excise and Prohibition Dept. (Registration) Government of Bihar, Patna.
2. The Principal Secretary, Registration, Excise and Prohibition Department (Registration) Government of Bihar, Patna.
3. The Inspector General of Registration, Prohibition Excise and Registration Department (Registration), Government of Bihar, Patna.
4. The Assistant Inspector General of Registration, Prohibition Excise and Registration Department (Registration) Bihar, Patna.
5. The Assistant Inspector General of Registration, Prohibition, Excise and Registration Department (Registration), Tirhut Division Muzaffarpur, Bihar.
6. The District Collector, East Champaran, Motihari.
7. The District Sub-Registrar, Registration, East Champaran, Motihari, Bihar.
8. That the Certificate Officer, East Champaran, Motihari.

... ... Appellant/s

Versus

Mrs. Nitu Kumari W/o Mr. Rajesh Kumar Motihari, Mohalla Miskat, Thana Motihari, District- Esat Champaran.

... ... Respondent/s

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**Appearance :**

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| For the Appellant/s | : | Mr.P.K. Shahi, Advocate General |
| | | Mr. Rewti Kant Raman, Advocate |
| For the Respondent/s | : | Mr.Ranjeet Kumar, Advocate |

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**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE**
**and**
**HONOURABLE MR. JUSTICE PARTHA SARTHY**
**ORAL JUDGMENT**
**(Per: HONOURABLE THE ACTING CHIEF JUSTICE)**

**Date : 03-03-2025**

**<u>Re: I.A. No. 02 of 2024</u>**

I.A. No. 02 of 2024 has been filed for condoning the delay of 100 days in preferring this appeal.

2. For the reasons stated in the I.A. No. 02 of 2024, the delay of 100 days in preferring this appeal is condoned.

3. I.A. No. 02 of 2024 stands allowed.

**<u>Re: L.P.A. No. 595 of 2024</u>**

4. The learned Single Judge, on noticing that the appeal preferred by the respondent was dismissed by the Appellate Authority only on the ground of non-deposit of 50 percent of the disputed amount, directed the Appellate Authority to hear the appeal, subject to the respondent depositing 10 percent of the disputed amount.

5. The aforenoted judgment has been challenged

in the present appeal on the sole ground that it is in teeth of the mandatory requirement under Section 47(A)(6) of the Indian Stamp Act, 1899 which provides for a pre-requisite in the form of a statutory deposit of the 50 percent of the amount payable as deficit stamp duty, chargeable on the market value of the property as determined by the Collector.

6. The very usage of the word 'shall' in the statute makes the intention of the legislature very clear and the same has to be followed and complied with, leaving no discretion in the authority to waive the same.

7. On this very ground, the judgment passed by the learned Single Judge dated 29th of January, 2024 passed in CWJC No. 17380 of 2023 is set aside.

8. However, we direct that in case the respondent deposits 50 percent of the disputed amount, the Appellate Authority, ignoring the delay in preferring the appeal, shall entertain the appeal and decide the same within a reasonable period of time.

9. The appeal stands allowed to the extent indicated above.

**(Ashutosh Kumar, ACJ)**

**(Partha Sarthy, J)**

P.K.P./-

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| **AFR/NAFR** | |
| **CAV DATE** | |
| **Uploading Date** | 05.03.2025 |
| **Transmission Date** | |