IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10231 of 2016

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Kundan Prasad Son of Rameshwar Prasad Resident of village - Lal Darwaja, Police Station Kotwali, District - Munger

... ... Petitioner/s

Versus

1. The State Of Bihar
2. The Assistant Registrar Inspector General, Munger Division, Munger
3. The District Magistrate, Munger
4. The Registrar, Sub - Registry, Munger
5. The Registry officer, Sub - Registry, Munger

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prem Chand Yadav, Adv
For the State	:	Mrs. Vijaya Laxmi Srivastava, AC to SC-23

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA

ORAL ORDER

7 25-04-2025 Heard learned counsel for the petitioner, Mr. Prem Chand Yadav and learned AC to SC-23, Mrs. Vijaya Laxmi Srivastava for the State.

2. The petitioner has filed the present writ application challenging the order dated 27.01.2016 passed by the Assistant Inspector General of Registration, Munger in Deficit Stamp Case No. 42 of 2015 (Annexure-5 to the writ application) whereby the Assistant Inspector General by exercising power under Section 47-A(3) of the Indian Stamp Act, 1899 read with Bihar Amendment has directed the petitioner to deposit the deficit stamp duty.

3. Learned counsel appearing for the State submits that the order passed by the Assistant Inspector General of Registration dated 27.01.2016 passed in exercise of power under Section 47-A(3) of the Indian Stamp Act read with Bihar Amendment is appealable before the Commissioner under Sub-Section (4) of Section 47-A of the said Act and before filing an appeal, the petitioner would be required to deposit 50% amount of the payable deficit stamp duty chargeable on the market value of the property as determined by the Collector. The provision to deposit 50% amount of the payable deficit stamp duty is provided under Sub-Section (6) of Section 47-A of the Indian Stamp Act read with Bihar Amendment. Learned counsel appearing for the State further submits that the present writ application has been filed by-passing the provision of appeal and hence, the same is not maintainable and fit to be rejected/dismissed.

4. Upon careful examination of Section 47-A as contained in the Indian Stamp Act, 1899 read with Bihar Amendment Act 5 of 2013, it is clear that an order passed under Section 47-A(3) is appealable under Sub-Section (4) of the said Section and further Sub-Section (6) of the same Section also provides for depositing 50% of the payable deficit stamp duty amount.

5. On this issue, reference is being made to a decision of this Court dated 19.11.2018 passed in CWJC No. 10080 of 2016 which was passed relying upon previous judgment dated 08.01.2015 passed in CWJC No. 10002 of 2013. In both these decisions, it has been clearly held that order passed under Section 47-A(3) should be challenged by filing an appeal and not by way of writ application. It has also been held in CWJC No. 10002 of 2013 that if the order impugned has been passed under Section 47-A(3) of Indian Stamp Act read with Bihar Amendment then while filing the appeal, 50% of the deficit stamp duty amount will have to be deposited.

6. In view of the above and taking note of the judgments referred above, the present writ application is held to be not maintainable and it is accordingly disposed of giving liberty to the petitioner to file an appropriate appeal under Section 47-A(4) of the Indian Stamp Act read with Bihar Amendment before the Divisional Commissioner, Munger Division, Munger within a period of four weeks from the date of receipt or production of a copy of this order and while filing the appeal, the petitioner will deposit 50% of the deficit stamp duty amount in terms of Sub-Section (6) of Section 47-A, failing which the appeal would not be maintainable. So far as the point of limitation is concerned, the Divisional Commissioner, Munger shall decide the same in accordance with law by taking into account the period which has been exhausted by the petitioner on account of pendency of the present writ application.

7. With the aforesaid liberty granted to the petitioner, the present writ application is disposed of.

(Alok Kumar Sinha, J)

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