IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.324 of 2018

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Ahmar Rahman S/o Ashfaque Rahman R/o Pent House, Federal Plaza Apartment, Federal Colony, P.O. and P.S.- Phulwarisharif, District- Patna.

... ... Petitioner/s

Versus

1. The Assistant Registration Inspector General, Patna Division and Anr
2. Sub Registrar Phulwarisharif, Patna, P.O. and P.S. Phulwarisharif, District Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Raju Giri, Sr. Advocate
		Mr. Harsh Vardhan, Advocate
For the Respondent/s	:	Mr. Manish Kumar, AC to AAG-6
		Incharge AAG-5

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA

ORAL ORDER

9 23-07-2025 Heard learned Senior Counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the respondents-State.

2. The petitioner filed this writ application initially challenging the Letter No.2468 dated 02.11.2017 (Annexure-1) issued by the respondent no.2 by which the land of the petitioner was wrongly categorized as commercial and a deficit stamp of the value of Rs.14,91,809/- was ascertained. Further prayer was made for quashing the intended proceeding Stamp Dispute No.403 of 2017 before respondent no.1 and also for commanding the respondent no.2 to deliver the accomplish deed

of registration of the subject land to the petitioner as per factual agricultural value sufficient stamp of Rs.1,70,541/- already paid but despite that, as per the petitioner, the registered sale deed has not been delivered to the petitioner up till now.

3. It is further contended by the petitioner that when the petitioner objected to the demand of so-called deficit stamp of the value of Rs.14,91,809/-, the Sub-Registrar, Phulwarisharif, Patna by Letter No.2468 dated 02.11.2017 referred the matter under Section 47A(1) of the Indian Stamp Act, 1899 to the Collector, Patna for calculating the deficit stamp duty, whereafter the Collector, Patna issued notice to the petitioner after registering it as Stamp Case No.403 of 2017 and ultimately passed an order dated 22.04.2019 whereby and whereunder the petitioner has been directed to pay the deficit stamp duty to the tune of Rs.14,91,809/- along with a fine of Rs.1,49,181/- (Annexed as Annexure-10 in the supplementary affidavit filed by the petitioner). This subsequent order dated 22.04.2019 passed by the Collector, Patna-cum-Assistant Inspector General Registration, Patna Division, Patna was challenged by filing I.A. No.01 of 2024 by the petitioner and the said interlocutory application was allowed, allowing the petitioner to challenge this order as an additional relief to the

main relief in the writ application.

4. As on today, it is this order dated 22.04.2019 passed by the Collector-cum- Assistant Inspector General Registration, Patna Division, Patna which is the main order under challenge in the present writ application. This order, admittedly has been passed pursuant to reference made by the Sub-Registrar, Phulwarisharif, Patna under Section 47A(1) of the Indian Stamp Act.

5. The limited controversy in this case is that **whether the sale deed was registered in favour of the petitioner on 30.10.2017 when it was presented for registration and if yes, then whether after registration of the sale deed on 30.10.2017, the Sub-Registrar, Phulwarisharif, Patna could have referred the matter under Section 47A(1) of the Indian Stamp Act for calculation of deficit stamp duty by the Collector, Patna ?**

6. Learned Senior Counsel appearing for the petitioner submits that in the impugned order passed by the Collector, Patna (Annexure-10 to the supplementary affidavit filed by the petitioner) the Collector has himself admitted that the sale deed was registered on 30.10.2017. In this regard he places reliance on paragraph-1 of the said impugned order which is quoted

herein below for needful.

वाद संख्या–403/2017

राज्य बनाम् अहमर रहमान

लेख्यकारी–श्रीमती शकुन्तला देवी द्वारा लेख्यधारी–अहमर रहमान के पक्ष में मौजा–भुसौला दानापुर, अंचल–फुलवारीशरीफ, थाना संख्या–40, अन्तर्गत खाता संख्या–250, सर्वे खेसरा संख्या–425, रकवा–13.53125 डी0 भू/सम्पत्ति का मूल्य–27,07,000/–पर मुद्रांक शुल्क–1,70,541/–देकर अवर निबंधन कार्यालय, फुलवारीशरीफ (पटना) में टोकन संख्या–8638/2017, दिनांक–30/10/2017 को निष्पादित/निबंधित किया गया है।

7. From the above, it is clear that the Collector himself has admitted that registration of the sale deed stood completed on 30.10.2017. In paragraph-6 of the counter affidavit filed by respondent no.1 and 2 on 03.10.2018 the respondent no.1 and 2 have admitted that the matter was referred by the Sub-Registrar, Phulwarisharif, Patna vide Letter No.2468 dated 02.11.2017 before the Collector, Patna-cum-Assistant Registration Inspector General, Patna Division, Patna under Section 47A(1) of the Indian Stamp Act.

8. Per contra; the learned counsel appearing for respondents-State submits that although the sale deed was presented for registration on 30.10.2017 vide Token No.8638/2017 but on the said date the sale deed was not registered, which manifestly appears to be contrary what has

been stated by the Collector, Patna in Annexure-10 wherein it has been clearly stated by the Collector in clear words that the registration stood completed on 30.10.2017. Therefore, the submissions made on behalf of learned counsel for the respondents-State appears to be contrary to the factual position admitted by the Collector, Patna in the impugned order at Annexure-10.

9. Learned counsel for the respondents-State, however very fairly admits that if the sale deed stood registered on 30.10.2017 then the Sub-Registrar, Phulwarisharif could not have referred the matter for calculation of deficit stamp duty by invoking Section 47A(1) of the Indian Stamp Act.

10. The legal proposition as to whether a reference can be made under Section 47A(1) of the Indian Stamp Act after the sale deed has been registered is no longer *res integra.* In the case of ***Mohammad Asim Rahman vs. The State of Bihar & Ors.*** this Court vide judgment dated 23.02.2023 has held and observed as follows:

> *"5. I have heard the learned counsel for the parties and gone through the materials on record. At the outset, it would be relevant to reproduce Section 47A (1) of the Indian Stamp Act, 1899 [as amended by the Indian Stamp (Bihar Amendment) Act, 2013, published in the gazette on 03.05.2013], herein below:-*

"(1) Where the registering officers appointed under the Registration Act, 1908 while registering any instrument of conveyance, exchange, gift, partition or settlement is satisfied that the classification of the property and/or the measurement of the structure contained in the property which is subject matter of such instrument has been set forth wrongly or the market value of the property, which is subject matter of such instrument has been set forth at a lower rate than the Guideline Register of Estimated Minimum Value prepared under the rules framed under the provision of this Act, he shall refer such instrument before registering it to the Collector for determination of the proper market value of such property and the proper duty payable thereon."

6. It is apparent from a bare perusal of Section 47A(1) of the Indian Stamp Act, 1899 that the registering authority can only refer the matter, before registering the document in question, to the Collector / the Assistant Inspector General, for determination of the proper market value of such property and the duty payable thereon. As far as the present case is concerned, it is an admitted fact that the sale deed in question was registered on 7.9.2017, in the office of the Sub-Registrar, Phulwarisharif, Patna, however, the same was referred by the Sub-Registrar, Phulwarisharif, to the respondent No. 2 under Section 47A(1) of the Indian Stamp Act, 1899 only on 31.7.2018 i.e. after lapse of about 10 months of registration of the sale deed in question, which in any view of the matter is illegal & contrary to the provisions contained in the Act, 1899.

7. This Court further finds that if at all any proceeding is required to be initiated after registration, the same can be done by the Collector / Assistant Inspector General Registration, who can suo motu, within two years from the date of such registration, under Section 47A(3) of the Indian Stamp Act, 1899, call for and examine the instrument for the purpose of satisfying himself as to the correctness of the market value of the property which is the subject matter of such instrument and the duty payable thereon, however, this is not the case here, inasmuch as in the present case, the Sub-Registrar, Phulwarisharif, Patna, has made a reference to the Assistant Inspector General, Registration, Patna Division, Patna, vide letter dated 31.07.2018, after the registration of the sale deed on 7.9.2017, thus there is a clear contravention of Section 47A(1) of the Indian Stamp Act, 1899. This Court is of the view that the present case is squarely covered by the law laid down by a coordinate Bench of this Court in the case of Shahnaz Begam (supra), which the Ld. State counsel has not been able to controvert. It would be apt to reproduce paragraphs no. 6 to 9 of the said judgment rendered in the case of Shahnaz Begam (supra) herein below:-

> *"6. It, thus, follows that the Registering Authority can only refer the matter before registering it to the Collector for determination of the proper market value of such property and the proper duty payable thereon. In the present case, it is quite clear that the registration was already effected and it was only thereafter that the reference was made to the Collector/AIG*

Registration for determination of the correct value. Furthermore, if at all, a proceeding was to have been initiated after registration by the Collector suo motu within the provisions of Section 47A(3), the same could have been done within a period of two (2) years from the date of registration of such instrument already referred to him under Sub Section (1). Provisions as stated in Section 47A(3) is as follows:-

"The Collector may suo motu within two years from the date of registration of such instrument not already referred to him under sub-section (1), call for and examine the instrument for the purpose of satisfying himself as to the correctness of the market value of the property which is the subject matter of such instrument and the duty payable thereon and if, after such examination, he has reason to believe that the market value of such property, has not been rightly set forth in the instrument , [or is less than even the minimum value determined in accordance with any rules made under this Act] he may determine the market value of such property and the duty as aforesaid in accordance with the procedure provided for in sub-section (2). The difference, if any, in the amount of duty, shall be payable by the person liable to pay the duty.

Provided that nothing in this sub-section shall apply to any instrument registered before the date of commencement of the Indian Stamp (Bihar Amendment

Ordinance, 1986).”

7. It appears from the counter affidavit filed that it is not a proceeding initiated rather it was a reference to the Collector under Section 47A (1).

8. In that view of the matter, since the provisions clearly state that such enquiry can be made only before registering it to the Collector for determination of the proper market value of such property and the proper duty payable thereon. The entire reference is made against the statutory provisions and cannot be sustained in the eye of law. Thus, in the considered opinion of the Court, the impugned order dated 16.05.2016 as contained in Annexure-4 is wholly illegal and arbitrary and has to be quashed.”

11. From a bare perusal of Section 47A(1) of the Indian Stamp Act, 1899, it is clear that the registering authority can only refer the matter before registering the document in question, to the Collector/Assistant Inspector General for determination of the proper market value of such property and the duty payable thereon. As noted hereinabove, in the present case the sale deed stood registered on 30.10.2017, as admitted by the Collector, Patna-cum-Assistant Inspector General Registration, Patna Division, Patna in impugned order dated 22.04.2019 (Annexure-10), in the office of the Sub-Registrar, Phulwarisharif, Patna, however the same was referred by the

Sub-Registrar, Phulwarisharif, Patna to the Assistant Inspector General Registration, Patna under Section 47A(1) of the Indian Stamp Act, 1899 on 02.11.2017 i.e. after the registration of the sale deed in question, which could not have been done as per law.

12. For the reasons as stated hereinabove, this Court finds that the reference made by the Sub-Registrar, Phulwarisarif, Patna under Section 47A(1) of the Indian Stamp Act on 02.11.2017 to the Assistant Inspector General/Collector for determination of proper market value of the property in question and the duty payable thereon after the property stood registered and sale deed stood executed on 30.10.2017 is completely illegal and without jurisdiction and hence the impugned order dated 22.04.2019 passed by the Assistant Inspector General in Case No.403 of 2017 (Annexure-10 to the supplementary affidavit filed by the petitioner) is hereby quashed/set aside. Consequently, Letter No.2468 dated 02.11.2017 (Annexure-1) issued by the respondent no.2 as well as the entire proceeding bearing Stamp Duty No.403/ 2017 also stands set aside and the respondent no.2 is directed to deliver the accomplish deed of registration of the subject land to the petitioner within 15 days from the date of passing of this order.

13. The writ application stands allowed to the extent as indicated above.

14. All pending I.As, if any shall be deemed to have been disposed of.

(Alok Kumar Sinha, J)

Prakash Narayan

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