IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7055 of 2025

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Mustari Khatoon Wife of Mohd Jahid Ansari Resident of village- Thakura P.S.- Ramgarh District- Kaimur (Bhabhua).

... ... Petitioner/s

Versus

1. The State of Bihar through the Collector, Kaimur.
2. The Collector cum District Magistrate, Kaimur (Bhabhua).
3. The District Sub Registrar, Kaimur.
4. The Sub Registrar, Mohania, Kaimur.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Arabind Nath Pandey, Adv.
	:	Mr. Varun Kumar, Adv.
For the Respondent/s	:	Mr. Additional Advocate General (9)
	:	Mr. Anil Kumar Verma, Ac to Aag9

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

3 02-02-2026

1. The petitioner has filed the present writ application being aggrieved by the order dated 18.03.2025 passed in Stamp Appeal No. 1 of 2025 by Collector-cum-District Magistrate, Kaimur at Bhabhua, whereby the Collector has directed to pay the deficit stamp duty of Rs. 3,65,904/- along with penalty of Rs. 36,590/- having a total amount of Rs. 402,494/- pursuant to registration of a sale deed having a piece of land situated at Khata No. 193, Plot No. 886, Thana No. 335, Mauza-Thakura having Deed No. 5848 of 2024 dated 06.08.2024.

2. Learned counsel for the petitioner submits that the petitioner purchased a land measuring an area of 3 decimals in Khata No. 193, Plot No. 888, showing the nature of the land

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residential parti situated in village Thakura through registered sale deed dated 06.08.2024. According to the petitioner, he started construction upon the purchased land. The elder brother-in-law of the petitioner made a complaint before the Collector alleging that the petitioner has concealed the fact that the land purchased by her was parti residential, inasmuch as the double storey structure has been constructed upon the subject land. The Sub-Registrar, Mohania, vide letter no. 402 dated 17.12.2024 on the basis of complaint made by the complainant/Md. Shahid Ansari and after inquiry referred the matter under Section 47 A of the Indian Stamp Act before the Collector for determination of the value of the registered sale deed dated 06.08.2024 for recovery of the determined value of the residential construction and amount of deficit stamp in exercise of power under Section 47 A (3) of the Act.

3. Referring to the letter dated 17.12.2024 at Annexure R/1 to the counter affidavit, learned counsel submits that from perusal of the contents of the letter, it appears that the Sub-Registrar, Mohania, forwarded the joint report prepared by Sub-Registrar, Mohania, and District Sub-Registrar, Kaimur, before the Collector upon the registered sale deed having a finding that petitioner has caused revenue loss to the State,

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requested the Collector to hold spot inspection of the land mentioned in the sale deed for the purpose of determination of the market value of the same and realization of the deficit stamp duty and penalty.

4. Referring to Section 47 A sub-clause (1) of the Indian Stamp (Bihar Amendment) Act, 2013 (hereinafter referred to as the Stamp Act), learned counsel further submits that while registering any instrument, if the sub-registrar finds that the instrument has been set forth wrongly and market value of the property has been declared at a lower rate than the guideline register of estimated minimum value prepared under the rules, 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. Therefore, the submission is that after registration of the document/sale deed, the Registrar, becomes functus officio and he cannot hold the inquiry himself and through a joint inquiry held by him along with the District Sub-Registrar of Kaimur, Bhabua.

5. Learned counsel however submits that of course Collector has the power after registration of such instrument under Section 47 A (3) of the Stamp Act, and can examine the instrument for the purpose of satisfying himself as to the

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correctness of the market value of the property which is the subject matter of such instrument and duty payable thereon and if after such examination, the collector has reason to believe that the market value of such property has not been rightly set forth in the instrument, he may determine the market value of such property and duty in accordance with the procedure provided in sub-section (2). The difference, if any, in the amount of duty is payable by the person liable to pay the duty. The Collector has not examined the instrument and the duty payable thereon himself, and it appears that on the basis of complaint made before the Collector, the inquiry was held by a joint team of Sub-Registrar, Mohania, and District Sub-Registrar, Kaimur and the inquiry report along with the letter dated 17.12.2024 was forwarded before the Collector by the District Sub-Registrar, Kaimur at Bhabua. The Collector himself has not determined the market value as prescribed in Section 47 A (3) of the Stamp Act and has merely relied upon the joint report of two Sub-Registrars and has passed the impugned order directing the petitioner to deposit the deficit court fee along with the penalty in Stamp Appeal No. 1 of 2025.

6. He relies upon the judgment of Co-ordinate Bench of this Court reported in 2025 Volume 1 BLJ 299 and order

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dated 04.09.2024 in CWJC No. 4012 of 2024 in which this Court has held that once an instrument is registered, the Sub-Registrar does not have any jurisdiction to pass any order for determination of the stamp duty payable or for realization of any deficit stamp duty.

7. Learned Counsel also submits that the joint inquiry conducted by the two Sub-Registrars is vexatious and is a table inquiry inasmuch as, in the inquiry, it has been shown that double storey building has been constructed on the purchased land, whereas the fact of the matter is that the building is still under construction. Therefore, the determination of the value of the structure done by the Inquiry Committee is factually incorrect. If the power under the statute has been conferred upon the Collector, the Collector cannot abdicate his power and instead of holding the inquiry for determination of the market value himself and arriving at a conclusion that the collector has reason to believe that the market value of such property has not been rightly set forth in the instrument, he cannot delegate his power of inquiry and determination of the value to any other person if at all the collector has done so.

8. Learned counsel, however, submits that there is no statement in the counter-affidavit or no material on record to

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show that after receipt of the complaint from Md. Shahid Ansari, the Collector has directed for joint inquiry of two Sub-Registrars in purported exercise of power conferred upon him under section 47 A (3) of the Stamp Act.

9. On the other hand, learned counsel for the state submits that a complaint was made before the Collector by one Md. Shahid Ansari and on the basis of the complaint, Stamp Appeal No. 1 of 2025 was registered by the Collector and a report was called for from the Sub-Registrar, Kaimur, Mohania, who after spot verification determined the value of the property and the structure made there upon and arrived at the conclusion that the petitioner had disclosed the less value of the property in sale deed which comes to Rs. 60,98,440/- and as such the petitioner is liable to pay the deficit stamp duty along with penalty which has rightly been imposed by the Collector in the impugned order dated 18.03.2025.

10. I have heard learned counsel for the parties and have gone through the materials available on record including the impugned order.

11. From perusal of the impugned order, it appears that the Collector, as per the statutory provision prescribed under Section 47 A (3) of the Stamp Act, has not done the

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determination of the market value himself and has not arrived at the conclusion having reason to believe that market value of such property has not been rightly set forth in the instrument. As per the provisions of Section 47 A (3) of the Stamp Act, it is a duty of the Collector to examine instrument for the purpose of satisfying himself as to the correctness to the market value of the property which is the subject matter of such instrument and duty payable thereon and after such examination, if the Collector has reason to believe that the market value of such property has not been rightly set forth in the instrument, he may determine the market value of such property and duty in accordance with the procedure prescribed in sub-section (2).

12. In the present case, the Collector, without determining the market value of the property and the structure standing thereon, and without arriving at the conclusion on the basis of his own determination that the market value of such property has not been rightly set forth merely on the basis of inquiry done by Sub-Registrar, Mohania, and District Sub-Registrar, Kaimur, has passed the order directing the petitioner to deposit a sum of Rs. 4,02,494/- as deficit stamp duty as well as penalty. This is trite law that if statutory authority has been given some responsibility, in the statute, he has to act strictly in

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terms of the duty cast upon him in the statute and not otherwise. The aforesaid principle has been laid down by the Hon'ble Supreme Court in the case of **Dhanajaya Reddy v. State of Karnataka,** reported in **(2001) 4 SCC 9** and in **Opto Circuit India Limited v. Axis Bank & Ors.**, reported in **(2021) 6 SCC 707**. The Collector has abdicated his statutory duty and has not determined the market value and the structure standing upon the purchased land and merely on the inquiry report of Sub-Registrar has held that the value disclosed by the petitioner of the property in the sale deed was not correct and directed for payment of deficit stamp duty and penalty. As per section 47A (1) of the Stamp Act, after registration of the sale deed/document, the Sub-Registrar becomes functus officio and the power to determine the value of the registered property vests with the Collector under Section 47 A (3) of the Stamp Act. The Collector, at his own level, can determine the market value of such property and duty payable upon the same in accordance with the procedure provided in sub-section (2) of Section 47 of the Stamp Act.

13. Considering the aforesaid discussion upon facts as well as on law, this court finds that the exercise of power by the Collector based upon the determination of the value of the

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property by a joint inquiry of Sub-Registrar is erroneous. Accordingly, the impugned order dated 18.03.2025 passed by the Collector is set aside. The matter is remitted back to the Collector to examine the correctness of the market value of the property and structure himself which is the subject matter of the instrument in question. The Collector may determine the market value of the property of the document in question and duty payable thereon in accordance with the procedure prescribed in Sub-Section (2) giving opportunity of hearing to the petitioner and all concerned. After remand, the Collector is directed to take necessary steps in accordance with law within a period of three months from today.

14. With the aforesaid direction and observation, the present writ application is disposed.

(Anil Kumar Sinha, J)

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