**IN THE HIGH COURT AT CALCUTTA**
**Constitutional Writ Jurisdiction**
**Appellate Side**

Present:
**The Hon'ble Justice Partha Sarathi Sen, J.**

**W.P.A. 13816 of 2026**

Bidyut Naha
Vs.
The State of West Bengal & Ors..

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| For the petitioner | : | Mr. Indra Nath Mukherjee<br>Mr. Indrajit Sen<br>Ms. Indralina Sen |
| For the State respondents | : | Mr. Ms. Indrani Chakraborty, Ld. AGP<br>Mr. Nilanjan Pal<br>Ms. Sarda Sha |
| Heard on | : | November 16, 2026 |
| Judgment on : | : | November 16, 2026 |

**Partha Sarathi Sen, J.**

1. The subject matter of the instant writ petition is the memo dated 18.9.2025 as issued by the Collector and Deputy Inspector General of Registration, West Bengal i.e. respondent no. 2 authority, a copy of which has been annexed at page 50 of the instant writ petition. By virtue of the impugned memo dated 18.9.2025, the respondent no. 2 authority in exercise of its power under Section 47A(5) and (8) of the Indian Stamp Act, 1899 (the said Act, in short) enhanced and determined the valuation of the property as involved in the instant

writ petition to the tune of Rs.6,23,75,007/- and thus directed the present writ petitioner to pay the deficit Stamp duty and the registration charges to the tune of Rs.26,86,250/- and Rs. 3,83,750/- respectively within a specified time.

2. The writ petitioner felt aggrieved and thus preferred the instant writ petition.

3. At the time of hearing Ms. Sen, learned Advocate appearing on behalf of the writ petitioner duly led by Mr. Mukherjee, learned Advocate at the very outset draws attention of this Court to pages 40 and 41 of the instant writ petition being a copy of GRIPS e-Challan as issued by the registering authority. It is submitted that on careful perusal of the said e-challan it would reveal that at the time of presentation of the document in question for registration by the writ petitioner the registering authority valued the said property to the tune of Rs.2,40,00,003/- and on the basis of the said assessment the writ petitioner has duly paid the requisite Stamp duty and registration charges. It is further submitted by Ms. Sen that thereafter the said document was registered and subsequently the said registered document was delivered to the writ petitioner.

4. At the juncture, Ms. Sen took me to page 49 of the instant writ petition being a copy of the notice under Section 47A(5) of the said Act. It is submitted by Ms. Sen that, on perusal of the copy of the

notice dated 11.9.2025 it would reveal that the respondent no. 2 authority pursuant to the said notice directed the writ petitioner to appear before him on 18.9.2025 at 3.00 P.M. to which the writ petitioner duly appeared before the respondent no. 2 authority. It is further submitted by Ms. Sen that on the said very date i.e. on 18.9.2025 the respondent no. 2 authority without assigning any reason whatsoever re-determined the market value of the property as involved in the instant writ petition to the tune of Rs.6,23,75,007/- and directed the writ petitioner to pay deficit Stamp Duty and registration charges as aforesaid on the basis of the revised valuation. It is submitted by Ms. Sen, that on perusal of the impugned notice dated 18.9.2025 it would reveal that the respondent no.2 authority has not assigned any reason at all for revaluation of the property in question thereby increasing the market value of the property.

5. In support of her contention Ms. Sen took me to Rule 5 of the West Bengal Stamp (Prevention Undervaluation of Instrument) Rules 2001 (the said Rules, in short). It is argued by Ms. Sen that the respondent no. 2 authority while revising the valuation of the property in question is duty bound to issue notice in form VIII of the said Rules in terms of the provision of Rule 5(1) of the said Rules. It is further submitted by Ms. Sen that while re-determining the market value of the property the respondent no. 2 has also not complied with the provision of Rule 5(3)(d) of the said Act.

6. It is submitted by Ms. Sen that, the order/notice dated 18.9.2025 by which the respondent no. 2 authority re-determined the market value of the property is liable to be set aside in as much as the said notice dated 18.9.2025 was issued without complying the legal formalities and/or without assigning any reason for its re-determination causing serious prejudice to the writ petitioner.

7. It is further submitted by Ms. Sen that though the writ petitioner has duly paid the revised Stamp Duty and the registration charges in terms of the impugned notice dated 18.9.2025 even then the instant writ petition is maintainable in view of the fact that the writ petitioner had to make such payment under duress and compulsion in as much from the wordings of the said impugned notice dated 18.9.2025 it would reveal that in the event the revised Stamp Duty and registration charges are not paid with the specified time, it would carry penal interest.

8. Per contra, Mr. Pal, learned Advocate for the State and led by Ms. Chakraborty, Ld. AGP in course of his submission places his reliance upon the statement of facts as prepared by the respondent no. 2 authority. It is argued by Mr. Pal that, the notice dated 18.9.2025 was issued by the respondent no.2 authority in accordance with law that is in exercise of its power under Section 47(8) of the said Act. It is submitted that the respondent no. 8 authority re-assessed the market value of the property considering the proposed use of land as

'Pukur' and 'commercial' as per potentiality of the adjacent area which was duly accepted by the present writ petitioner by paying the deficit Stamp Duty and the registration charges which categorically indicates that the present writ petitioner concedes to the re-assessed valuation as made by the respondent no. 2 authority.

9. In his next fold of submission Mr. Pal draws attention of this Court to Section 47B of the said Act which deals with the appeal against an order under Section 47A(5) and (8) of the said Act. It is submitted by Mr. Pal that the instant writ petition is not maintainable in as much as no cogent reason has been assigned by the present writ petitioner for not availing the alternative statutory remedy and despite that the instant writ petition has been filed.

10. This Court has meticulously perused the entire materials placed before it. This Court has heard the learned counsel for the contending parties at length.

11. Since in course of his argument Mr. Pal, learned counsel appearing on behalf of the respondent/State raises the point of maintainability of the instant writ petition this Court is at the very outset proposes to decide the point of maintainability of the instant writ petition. In doing so this Court proposes to look to Section 47A and 47B of the said Act which reads as under.

*"Sec. 47A. Instruments of conveyance, etc. undervalued, how to be dealt with.-*

*(1) ……*

*(2) ……*

*(3) ……*

*(4) ……*

*(5) On receipt of a reference under sub-section (3), the authority specified under that sub-section shall, after giving the parties concerned in respect of the instrument referred to in sub-section (1) a reasonable opportunity of being heard and after holding an enquiry in such manner as may be prescribed, determine the market value of the property which is the subject matter of the instrument and the proper stamp duty payable thereon, and shall thereafter issue a notice in the manner prescribed directing the concerned person to make payment of such deficit amount of stamp duty within such time as may be prescribed.*

*(6) ……*

*(7) ……*

*(8) (a) The authority referred to in sub-section (3) may, on receipt of any information or otherwise, suo motu within five years from the date of registration of any instrument, where such instrument was*

*registered on the basis of the market value which was set forth in the instrument or which was ascertained by the registering officer referred to in sub-section (1), call for and examine any such instrument and any other document relating thereto 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 which was set forth in the instrument or which was ascertained under sub-section (2) and the stamp duty payable thereon.*

*(b) If, after such examination, the authority referred to in clause (a) has reasons to believe that the market value of the property which is the subject-matter of such instrument has not been truly set forth in the instrument or correctly ascertained under sub-section (2), he may, after giving the parties concerned in the instrument a reasonable opportunity of being heard, determine the market value of the property which is the subject-matter of such instrument and the amount of stamp duty chargeable thereon in the manner referred to in sub-section (5), and the difference in the amount of stamp duty, if any, between the stamp duty so determined by him and the stamp duty already paid by the concerned person shall be required to be paid by him in the prescribed manner:*

*Provided that nothing in this sub-section shall apply to-*

*(a) any instrument referred to in clause (b), clause (c), clause (d), clause (e) or clause (g) of sub-section (1) registered before the 31st day of January, 1994, or*

*(b) any instrument referred to in clause (a), clause (f), clause (h), of sub-section (1) registered before the coming into force of the Indian Stamp (West Bengal Amendment) Act, 1998.*

*(9) …….*

*(10) Explanation. - …….*

*Sec. 47B. Appeal.-(1) Any concerned person aggrieved by an order passed under sub-section (5) or sub-section (8) of section 47A determining the market value may, in the prescribed manner, prefer an appeal to such appellate authority as may be prescribed within sixty days from the date of receipt of such order or such further period as may be allowed by the said authority for the cause shown to his satisfaction.*

*(2) Subject to such rules or procedure as may be prescribed, the appellate authority shall dispose of any appeal preferred before him under sub-section (1) in the prescribed manner.*

*(3) Where the appellate authority modifies the amount of stamp duty determined under sub-section (5) or sub-section (8) of section 47A and the modified amount of such stamp duty is higher than the stamp duty already paid by the concerned person, he shall pay*

*interest at the rate specified in sub-section (6) of section 47A on the modified amount of such stamp duty from the month in which he was liable to pay interest under sub-section (6) up to the month preceding the month of payment of such modified amount of stamp duty."*

9. Keeping in mind the aforementioned legislative provisions if I look to the factual aspects as involved in the instant writ petition, it appears to this Court that admittedly a notice under Section 47A(5) of the said Act dated 11.9.2025 was issued by the respondent no.2 authority addressed to the writ petitioner directing the writ petitioner to appear before him on a particular day and hour. On careful perusal of the impugned notice dated 18.9.2025 it appears that the respondent no.2 authority recorded that the writ petitioner appeared before such authority and participated in the proceeding as initiated under Section 47A(8) of the said Act. Learned advocate appearing on behalf of the writ petitioner in course of her submission also not disputed rather admitted that the writ petitioner appeared before the respondent no.2 authority. However, it is the grievance of the writ petitioner that the respondent no.2 authority most unilaterally enhanced the market value of the property as involved in the instant writ petition without complying the provision of Rule 5 of the said Rules.

10. On perusal of the impugned notice dated 18.9.2025 it appears to this Court that rightly or wrongly the respondent no.2 authority exercised its power under Section 47A(5) and (8) of the said Act and thus increased the market value of the property as involved in the instant writ petition thereby directing the writ petitioner to pay deficit stamp duty and the deficit registration charges which have also been paid by the writ petitioner though according to Ms. Sen, learned advocate, the same was paid under duress and compulsion.

11. At this juncture, if I look to the provision of Section 47B of the said Act it appears to this Court that it is the legislative mandate that in the event a person is aggrieved by an order under Section 47A(5) or (8) of the said Act, he shall have to approach the appellate authority by preferring an appeal within 60 days from the date of passing of the said order. On careful perusal of the entire pleading of the instant writ petition this Court finds that the writ petitioner has not assigned any cogent reason for not preferring the said appeal under Section 47B of the said Act before the appellate authority. At this juncture, the moot question arises for consideration as to whether despite availability of alternative efficacious statutory remedy, the present writ petition is at all maintainable in the eye of law or not.

12. At this juncture, this Court proposes to look to the reported decision of the Hon'ble Supreme Court in the case of ***U.P. State Spinning Company Limited –vs.- R.S. Pandey and Anr.***, reported in ***(2005) 8 SCC 264*** wherein the Hon'ble Supreme Court while dealing with the subject of entertainability of a writ petition despite availability of alternative remedy expressed the following view :

> "*Normally the High Court should not interfere if there is an adequate efficacious alternative remedy. If somebody approaches the High court without availing the alternative remedy provided, the High Court should ensure that he has made out a strong case or that there exist good grounds to invoke the extraordinary jurisdiction.*
>
> *There are two well-recognised exceptions to the doctrine of exhaustion of statutory remedies. First is when the proceedings are taken before the forum under a provision of law which is ultra virus, it is open to a party aggrieved thereby to move the High Court for quashing the proceedings on the ground that they are incompetent without a party being obliged to wait until those proceedings run their full course. Secondly, the doctrine has no application when the impugned order has been made in violation of the principles of natural justice.*"

13. The same view was reiterated by the Hon'ble Supreme Court in a later judgment in the case of ***Radha Krishan Industries –vs.- State of Himachal Pradesh***, reported in ***(2021)6 SCC 771*** wherein the Hon'ble Supreme Court held thus :

*"27. The principles of law which emerge are that:*

*27.1. The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well.*

*27.2. The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person.*

*27.3. Exceptions to the rule of alternate remedy arise where:*

*(a)the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution;*

*(b) there has been a violation of the principles of natural justice;*

*(c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged.*

*27.4. An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law.*

*27.5. When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion.*

*27.6. In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.*

*28. These principles have been consistently upheld by this Court in Chand Ratan v. Durga Prasad reported in (2003) 5 SCC 399, Babubhai Muljibhai Patel v. Nandlal Khodidas Barot reported in (1974) 2SCC 706 and Rajasthan*

*SEB v. Union of India reported in (2008) 5 SCC 632 among other decisions."*

14. Keeping in mind the propositions of law as decided by the Hon'ble Supreme Court if I look to the factual aspects as involved in the instant case it appears to this Court that the present writ petitioner has miserably failed to make out a case for entertaining the instant writ petition inasmuch as on perusal of the impugned notice dated 18.9.2025 it appears that the present writ petitioner appeared before the respondent no.2 authority and participated in the hearing pursuant to the notice dated 11.9.2025 as issued under Section 47A(5) of the said Act.

15. It further appears to this Court that no case has been made out on behalf of the writ petitioner that the action taken by the respondent no.2 authority is otherwise *ultra vires* rather sufficient materials have been placed by Mr. Pal, learned Advocate for the State to substantiate that the respondent no.2 authority acted within its authority within the meaning of Section 47A(5) and (8) of the said Act. It thus appears to this Court that the writ petitioner has made no endeavour to make out a case for entertaining the instant writ petition despite availability of alternative statutory efficacious effective remedy.

16. In view of such this Court is constrained to hold that the writ petition is not maintainable.

17. With the aforementioned observation WPA 13816 of 2026 is thus dismissed.

18. There shall be, however, no order as to costs.

19. However, keeping in mind that the present writ petitioner is pursuing his remedy before a wrong forum may be under a wrong legal advice, this Court grants liberty to the writ petitioner to prefer an appeal before the appropriate appellate authority under Section 47B of the Indian Stamp Act, 1899 and in the event such an appeal is preferred within 30 working days from the date of passing of this judgement, the said appellate authority shall treat the said appeal within the period of limitation.

20. Urgent photostat certified copy of this judgment, if applied for, be furnished to the parties on usual undertaking.

**(Partha Sarathi Sen, J.)**