

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7603 of 2012

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Sanjeev Tulsyan S/O Late Pahlad Rai Tulsyan R/O Mayaram Market,
Mayaram Road, P.S.- Khagaria, District- Khagaria

.... Petitioner/s

Versus

1. The State of Bihar through Secretary
2. The Commissioner, Munger Division, Munger
3. The District Magistrate, Munger Cum Licensing Authorities
4. Executive Engineer, Building Construction Department, Khagaria
5. Krishna Cinema Through Its Licensee Vijay Kumar Gupta S/O Late
Parmanand Gupta R/O Main Road, Khagaria, P.S.- Khagaria, District-
Khagaria
6. Shard Kumar Tulsyan S/O Raj Kumar Tulsyan R/O Mayaram Road, P.S.-
Khagaria, District- Khagaria

.... Respondent/s

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Appearance :

For the Petitioner/s :

For the Respondent/s : Mr. Kaushal Kr. Jha SC-4

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

5 16-09-2015 As expected, no one has appeared yet again on behalf of the petitioner. What is still more shocking to know is that when the petitioner was also directed to file a show cause reply as to why he should not be proceeded for committing perjury because of his swearing false affidavit and the notice has also been serviced on him 12.04.2015 as duly recorded in the service report, no show cause reply also ahs been filed in this case.

2. This writ application was filed on 16.04.2012 wherein the petitioner had prayed for the following relief:-

- (i) To restrain the Respondents from exhibiting any film in the Cinema Hall runs under the name and style of Krishna Cinema located at Main Road, Khagaria Town.
- (ii) To hold that the licence granted under the provisions of Bihar Cinema (Regulation) Act, 1954 to a dead person, i.e. Late Parmanand Gupta has seized to be licence on the

restrain of the no exhibition of film can be allowed."

3. When this was taken up for the first time on 09.07.2012, no one had appeared. Again when the case was placed on 20.11.2014 the similar position remained inasmuch as no one had appeared for the petitioner. On 26.11.2014, this Court had found that the absence of learned counsel for the petitioner was deliberate and in fact the petitioner had also sworn a false affidavit in support of the present case. This aspect of the matter will become more clear from the reading of the order of this Court dated 26.11.2014, which is quoted herein below:

No one appears yet again today for the petitioner.

The earlier order of this Court dated 09.07.2012 as also 20.11.2014 would go to show that learned counsel for the petitioner was not present even on the earlier dates.

Learned counsel for the State has however produced a copy of the order dated 10.04.2012 in C.W.J.C No. 5958 of 2012, wherein, the Division Bench of this Court having considered exactly the same relief as sought in this writ petition filed by the same petitioner had passed the following order:-

"Present writ petition has been filed for a direction upon the respondents to restrain/stop exhibiting any film in the name and style of Sri Ram Talkies a Cinema building located at Maya Ram Road of Khagaria Town.

It is stated on behalf of the petitioner that representation in this regard has already been filed before the authority concerned which is still unanswered.

In the opinion of this Court, it would suffice, if a direction is given to the District Magistrate, Munger-Cum-Licensing Authority (respondent no. 3) to dispose off the aforesaid representation dated 24.09.2011 as contained in Annexure 1 to the writ petition filed by the petitioner as expeditiously as possible.

This Court orders accordingly.

With the above observation this writ application is disposed off."

This Court fails to understand that as to how after six days of the aforesaid order of the Division Bench, in the case of this very writ petitioner, the present writ application has been filed on 16.04.2012 with the following relief:-

“To restrain the Respondents from exhibiting any film in the Cinema Hall runs under the name and style of Krishna Cinema located at Main Road, Khagaria Town.

To hold that the licence granted under the provisions of the Bihar cinema (Regulation) Act 1954 to a dead person, i.e. Late Parmanand Gupta has seized to be licence on the restrain of the no exhibition of film can be allowed.”

As a matter of fact, the petitioner has also suppressed the fact as with regard to filing of the aforementioned writ application being C.W.J.C No. 5958 of 2012, because in paragraph no. 16, of the present writ petition a statement has also been given by the petitioner that he had never moved this Court earlier for the relief sought in this writ application.

In that view of the matter, as the petitioner is found to have committed purgery, let notices be issued to the petitioner namely, Sanjeev Tulsyan, s/o Late Pahlad Rai Tulsyan, r/o Mayaram Market, Mayaram Road, P.S. Khagaria, District Khagaria, asking him to show cause as to why the proceeding for swearing false affidavit should not be drawn against him.

Put up this case immediately as a tied up matter after service of notice on the writ petitioner is complete.

4. It thus becomes clear that when the petitioner in para-16 of the writ application had made the following statements:

"16. That the petitioners have not moved this Hon'ble High Court in this matter earlier.",

he had made a deliberate false statement because his earlier writ application being CWJC No. 5958 of 2012 prior to filing of this writ application being C.W.J.C. No. 7603 of 2012 and yet suppressing the same, while making the aforementioned statement in para-16 of the writ application, will make him directly liable for

committing perjury.

5. Let it be noted that there is no scope of any confusion that the subject matter of C.W.J.C. No. 5958 of 2012 was again the same as prayed for in this writ application. This would become more clear from the reading of the order dated 10.04.2015 wherein the following order was made in C.W.J.C. No. 5958 of 2012, which reads as follows:-

Present writ petition has been filed for a direction upon the respondents to restrain/stop exhibiting any film in the name and style of Sri Ram Talkies a Cinema building located at Maya Ram Road of Khagaria Town.

It is stated on behalf of the petitioner that representation in this regard has already been filed before the authority concerned which is still un-answered.

In the opinion of this Court, it would suffice, if a direction is given to the District Magistrate, Munger-Cum-Licensing Authority (respondent no. 3) to dispose off the aforesaid representation dated 24.09.2011 as contained in Annexure 1 to the writ petition filed by the petitioner as expeditiously as possible.

This Court orders accordingly.

With the above observation this writ application is disposed off.

6. After the aforementioned writ application was disposed of on 10.04.2012, the present writ application was affidavited by the petitioner on 13.04.2012 and was filed on 16.04.2012 in which he had made the aforementioned statement in para-16. Thus, it becomes clear that the petitioner had tried to overreach the majesty of law while giving a false statement of his own moving this Court in the same subject matter.

7. The petitioner was already given an opportunity to

show cause as to why he should not be subjected to a proceeding for committing perjury, he despite receipt of service of notice has not chosen to file any show cause reply, even his learned counsel has been absent.

8. In that view of the matter, this Court while dismissing this writ application on the ground of suppression of fact, would direct the Registrar General of this Court to initiate a proceeding under Section 340 of the Code of Criminal Procedure against the petitioner in accordance with law.

9. With the aforementioned observation and direction, this writ application is dismissed.

(Mihir Kumar Jha, J)

Sujit/-

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