

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3856 of 2014

In

Civil Writ Jurisdiction Case No. 20989 of 2013

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Bibha Prasad Singh @ Biva Prasad Singh, Wife of Baidyanath Prasad Singh, Resident of Village- Thave Road, Near Sabnam Hotel, Gopalganj, P.O. + Police Station + District- Gopalganj.

.... Petitioner/s

Versus

1. Sri Kumar Gaurav, son of Sri Shyam Prakash Narayan Singh, resident of Village- Rameshwar Nam Colony, P.O.- R.N. College, P.S.- Hajipur, District- Vaishali, at present Executive Engineer, Electric Supply Sub-Division, Gopalganj, District- Gopalganj.

2. Sri Arvind Kumar, the then Assistant Engineer, Electric Supply Division, Gopalganj, District- Gopalganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Dwivedi

For the Respondent/s : Mrs. Archana Sinha

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL ORDER

4 22-07-2015 Heard counsel for the petitioner and Mrs Archana Sinha for opposite party nos. 1 and 2.

show cause as well as supplementary show cause on behalf of the opposite parties have been filed.

The contempt application raises a grievance that opposite party, particularly opposite party no.2, has willfully/deliberately violated/disregarded the order dated 03.04.2014 passed in CWJC No. 20989 of 2013. Relevant part of the said order read thus:-

Regard being had to the above, this court is persuaded to quash the calculation of final assessment appended with the supplementary counter affidavit (at page 7 thereof). The petitioner

is directed to file his objection before the appropriate / competent authority of the respondent Company within three weeks and thereafter the respondents shall pass a final order of assessment in terms of section 126 of the Act.

Learned counsel for the petitioner has submitted that since 8.7.2013 the petitioner is running without electricity. He, therefore, submits that during the pendency of the case either before the respondent company and / or before the criminal court, the electrical connection of the petitioner be restored. It is stated that even after carrying out the inspection on 8.7.2013, the respondent Company had been raising electrical bill(s) on average basis which the petitioner has been paying continuously.

Considering the entire facts, this court directs that the petitioner shall deposit 50% of the provisional assessment amount with the respondent Company after deducting the amount of the bill(s) which the petitioner has already paid after 8.7.2013. No sooner the 50% of the provisional loss in the manner stated above is deposited, the respondent Company, and in particular, the Assistant Engineer, Electric Supply Subdivision, Gopalganj, (respondent no.6) shall restore the electrical connection of the petitioner within seventy two hours thereafter.

This writ petition is accordingly disposed of with the aforesaid observation(s) / direction(s).

It has been stated that in accord with the aforesaid order the petitioner submitted his objection for consideration and for passing final assessment order on 23.04.2014 (Annexure-2). No action was taken thereon which prompted him to file another application (Annexure-3) on 01.08.2014. The Assistant Engineer-cum-Assessment Officer by a communication dated 11.08.2014 (Annexure-4) called upon the petitioner to first deposit 50% of

the provisional assessment amount for passing a final assessment order. Ultimately the said opposite party passed the final assessment order on 04.07.2014(Annexure-A to the supplementary show cause).

Learned counsel for the opposite party has contended that the petitioner has not deposited 50% of the amount as required of him which delayed the disposal of the assessment order.

Per contra, counsel for the petitioner has submitted with reference to the order passed on the writ petition that this Court had set aside the final assessment order and directed the authority to pass a fresh order on an objection/application filed in this regard within three weeks. For getting electric connection restored this Court had observed in concluding part of the order that if 50% of the amount reflected in the provisional assessment order is paid the opposite party shall restore the electric connection.

The stand of the opposite party/assessment authority on insistence for deposit of 50% of the provisional assessment amount, in my view, for passing the final assessment order is not as per the order of this Court. Counsel for the contemnor/opposite party has taken this Court to diverse affidavits in order to submit that insistence on deposit of 50% of the amount was in due compliance of the order of this Court. The petitioner had not

deposited the same and as such disposal of the matter was delayed. However, later realizing the fact that the same was for different purpose the opposite party has passed the assessment order. The delay in disposal of the matter was therefore not contemptuous.

Considering the submissions of the parties, in my view, the opposite party has complied with the order of this Court although belatedly for a reason which does not go down well with the Court. I, however, treat the order (Annexure-A) as substantial compliance of the order of this Court.

For causing delay in complying with the order this Court directs that opposite party no.2 to pay cost to the petitioner in the sum of Rs. 2,500/- (Rs. Two thousand five hundred) within four weeks failing which the same shall be realized from his salary by the employer and paid to the petitioner.

The contempt application stands disposed of in the aforesaid terms.

(Kishore Kumar Mandal, J)

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