

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21245 of 2014

With
Interlocutory Application No. 2771 of 2015

=====

Satish Kumar Agarwal, son of late R.S. Agarwal, resident of Mohalla-New Bahadurpur, on the way of Shyam Mandir, P.S. Bahadurpur, District-Patna-16 at present practicing as an Advocate at Patna High Court, Patna

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development Department of Government of Bihar, Patna
2. The District Magistrate, Rohtas at Sasaram
3. The Dehri Nagar Parishad, Dehri-on-Sone, Dalmia Nagar, Rohtas through its Executive Officer
4. The Executive Officer, Nagar Parishad, Dehri-on- Sone, Dalmia Nagar, District Rohtas at Sasaram.
5. The Chairman, Nagar Parishad, Dehri-on- Sone, Dalmia Nagar, District-Rohtas at Sasaram

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Shanti Pratap, Adv.

For the Respondent/s : Mr. Ajay, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

5 10-04-2015 Heard Mr. J.P. Shukla, learned Senior counsel for the petitioner and Mr. Avinash Kumar learned counsel for the respondents.

This is a second round litigation by the petitioner in respect of payment of his professional fee by the respondent nos. 3 to 5. The earlier round concluded under the order of a Bench of this Court dated 28.3.2014 placed at Annexure-10 to the writ petition which reads as follows:

“In view of the stand taken by the Nagar Parishad, Dehri-On-Sone that an amount of Rs.5,26,920/- has already been approved and sanctioned for the payment to the petitioner by the Board also, however, the cheque would be

issued in favour of the petitioner after adjusting the amount already received within a period of four weeks, the petitioner fairly submits that now this case has lost its efficacy so far the bills submitted by the petitioner is concerned. However, it is submitted that some amount is also due for which he has not submitted the bill as yet.

In above view of the matter, this writ application stands disposed of. However, the petitioner would be at liberty to submit the bills for the concerned period as stated above which would be considered by the Nagar Parishad in accordance with law.”

The petitioner following the liberty given by the Court filed a representation before the Executive Officer, Nagar Parishad, Dehri-on-Sone, Dalmia Nagar, a copy of which is placed at Annexure-11 raising issues of rate of fee, non-payment of junior fee as well as for clerkage. According to the petitioner he was entitled to a higher rate of fee as well as payment towards junior fee, clerkage charges, and retainer fee. It is in absence of any communication from the Executive Officer, Nagar Parishad that the writ petition was filed for a direction to the respondents to make payment of a sum of Rs. 5,73,340/- which includes the retainer fee, advocate fee, junior fee and clerkage charges. The claim of the petitioner has been rejected, vide order dated 12.3.2015, a copy of which has been placed at Annexure-13 to the interlocutory application and Annexure-B to the counter affidavit of the Nagar Parishad.



According to the Nagar Parishad whatever dues to which petitioner was found entitled as per the agreement between the parties, had been paid. It is however admitted that an amount of Rs. 35000/- towards retainer fee for the period May, 2012 to September, 2012 remains pending and which shall be paid. The petitioner being aggrieved has sought to question the order dated 12.3.2015 of the Executive Officer inter alia on grounds that it is contrary to the agreement between the parties.

I have heard learned counsel for the parties and I have perused the records.

There is a dispute on the issues raised by the petitioner as regarding the rate of fee, junior fee as well as clerkage charges, which has been disputed by the Nagar Parishad on the ground that there was no agreement to such payment. In fact the order passed in the earlier round of proceedings also does not reflect any such objection raised by the petitioner, except that some bills have not been submitted and remains pending.

Be that as it may, however, taking note of the circumstances that there is a serious dispute between the parties on the issue of rate of fee, junior fee and clerkage charges as claimed by the petitioner along with the admission made by the Executive Officer of the Nagar Parishad that Rs. 35000/- remains outstanding for

payment towards retainer fee, this Court is of the opinion that in the nature of dispute engulfing the present writ petition, a writ remedy would not be the proper forum for adjudication on such disputed facts.

In the circumstances, this Court while requiring the Executive Officer to make payment of the retainer fee of Rs. 35000/- to the petitioner as admitted in the order placed at Annexure-13 within a maximum period of four weeks from today, would dispose of the writ petition affording liberty to the petitioner to take recourse to such order remedy that may be available to him in law for espousing his other grievances.

The interlocutory application stands disposed of accordingly.

(Jyoti Saran, J)

Bibhash/-

U			
---	--	--	--