

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.138 of 2014

In

Civil Writ Jurisdiction Case No. 8427 of 2011

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Sukhnandan Rai & Anr.

.... Petitioner/s

Versus

M/s Premier Synthetic & Ors.

.... Respondent/s

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with

Civil Review No.139 of 2014

IN

Civil Writ Jurisdiction Case No. 8219 of 2011

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Chandra Bhushan Singh & Anr.

.... Petitioner/s

Versus

M/s Premier Synthetic & Ors.

.... Respondent/s

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Appearance :

(In C. REV. No.138 of 2014)

For the Petitioner/s : Mr. Abhinay Raj

For the Respondent/s : Mr.

(In C. REV. No.139 of 2014)

For the Petitioner/s : Mr. Abhinay Raj

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

- 9 11-08-2015 **1.** Heard the learned senior counsel, Mr. Devendra Sinha, for the petitioners in both the Civil Review applications and the learned counsel, Mr. Shailendra Kumar Sinha, on behalf of opposite party in both the Civil Review applications.
- 2.** The learned senior counsel for the petitioners submitted that by suppressing the real fact and playing fraud on the Court, the petitioners have obtained the liberty for filing a fresh



application before the Court below for comparison of the signature of the petitioner of the writ application on the agreement for sale by a Govt. Forensic Science Laboratory. According to the learned senior counsel, it was wrongly submitted before this Court that the petitioners of the writ application, i.e., defendant's evidence is going on. In fact the defendant's evidence had already been closed on 4.3.2011 on the application filed by the defendants themselves. Had this fact been brought to the notice of this Court while withdrawing the writ application, the defendants could not have been granted any liberty to file fresh application.

3. On the other hand, the learned counsel for the opposite parties submitted that it was by mistake submitted before this Court that the defendant's evidence is going on. Reasons have been assigned in the counter affidavit to the review application for giving wrong information. According to the learned counsel, the defendant resides in Delhi and had not properly instructed. Further subsequently, M.J.C. application was filed before this Court being MJC No.3350 of 2014 for modification of the said order which was rejected by this Court. According to the learned counsel as soon as the learned counsel came to know about the factual mistake, the said MJC application was filed.



4. It is admitted fact that the defendant's evidence has already been closed as stated above. Directions have been given by this Court in Misc. Appeal No.38 of 2004 to expedite the disposal of the suit itself and, therefore, now only argument is left to be advanced by the parties. From perusal of the order under review, it appears that no arguments were advanced before this Court and at the very outset the learned counsel who appeared prayed for permission to withdraw the writ application with liberty to file a fresh application before the Court below and accordingly, this Court in view of the submission of the learned counsel granted the aforesaid liberty as it was submitted before this Court that the defendant's evidence was going on at that stage, otherwise the writ application should have been disposed of on merit.

5. So far the filing of MJC No.3350 of 2014 is concerned, it may be mentioned here that on 25.08.2014, notices were issued in this review application and in the meantime, operation of the order passed in the writ application dated 26th February, 2014 was stayed and thereafter this MJC application No.3350 of 2014 was filed on 01.09.2014. Therefore, when the petitioners of the MJC application, i.e, the defendant came to know about the order passed by this Court in review application, has filed the MJC application. Therefore, the intention of the defendants needs no

elaboration.

6. In view of the above facts and circumstances of the case now it becomes admitted fact that the false statement was made before this Court and instead of arguing the case on merit, liberty was obtained on the ground that still the evidence of the defendant is going on.

7. The Hon'ble Supreme Court in the case of *S.P. Chengal Varaya Naidu (Dead) By Lrs. Vs. Jaganath (1994) 1 SCC 1* has held that **'the Courts of law are meant for imparting justice between the parties. One who comes to the Court, must come with clean hands. We are constrained to say that more often than not, process of the Court is being abused. Property-grabbers, tax- evaders, bank-loan-dodgers and other unscrupulous persons from all walks of life find the Court-process a convenient lever to retain the illegal-gains indefinitely. We have no hesitation to say that a person, who's case is based on falsehood, has no right to approach the Court. He can be summarily thrown out at any stage of the litigation.'**

8. Now, therefore, in view of this decision of the Hon'ble Supreme Court and the settled principle of the law and that the fraud vitiate everything, the order dated 26.02.2014 passed by this

Court in C.W.J.C.8427 of 2011 and C.W.J.C. No.8219 of 2011 whereby liberty was granted to defendant are hereby set aside as according to this Court, the said order was obtained by fraud. Both the review applications are thus allowed and the Order dated 26.02.2014 is modified to the extent that the wit applications are dismissed as withdrawn.

(Mungeshwar Sahoo, J)

Sanjeev/-

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