

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.378 of 2012

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1. Bihar Asainik Seva Swabalambi Sahkari Grih Nirman Samiti Ltd, Magistrate Colony, Patna-800025 Through Its President Sri Raghu Nandan Prasad S/O Late Kashi Nath Prasad Resident Of House No. 48/B-26, Road No.-2A, Magistrate Colony, P.O- Ashiyana Nagar, P.S- Rajeev Nagar, District- Patna 800025 (Bihar)

.... Petitioner/s

Versus

1. The Chairman Cum M.D. Bank Of India, Head Office, Star House, Bandra Kurla Complex, C-5-G Block, Bandra (East), Mumbai 460051
2. The Zonal Manager, Bank Of India, Fraser Road, Patna (Bihar)
3. The Regional/ Chief Manager, Bank Of India, Regional Office, Chanakya Tower, 'R' Block, Patna 800001 (Bihar).
4. The Branch Manager Bank Of India, Ashiyana Ram Nagari Branch, Ram Nagari, P.O- Rajeev Nagar, District- Patna 800025(Bihar).
5. Ombudsman, Banking Ombudsman Office (Bihar- Jharkhand), Reserve Bank Of India, 2nd Floor, South Gandhi Maidna, Patna-800001(Bihar).
6. The Union Of India, Through The Secretary Of Finance, New Delhi-1.

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Mahesh Narayan Parbat, Sr. Advocate.
For the Respondent Bank of India : Mr. Ajay Kumar Sinha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT
Date: 11-01-2016

This application seeks review of the order dated 26.4.2012, passed in CWJC No. 20287 of 2011. Let it be noticed at the outset that aggrieved by the aforesaid order, the petitioner filed writ appeal being LPA No. 1108 of 2012 which was disposed of on 06.08.2012 (Annexure-1) observing as under:-

“A perusal of the order under appeal shows that the present controversy was not dealt with by the writ Court and there is no material to show that it was actually raised at the time of arguments. Hence we dispose of the appeal by granting liberty to the appellant that if so advised it may raise the aforesaid claim before the writ Court by filing review petition. If such petition is filed, the same shall be

considered on its own merits without being prejudiced by the order.”

It has been submitted that the second prayer of the petitioner in the writ petition related to the payment of adequate compensation for the loss suffered by the petitioner Grih Nirman Samiti on account of non honouring of the cheque by the respondent Bank. The same was not addressed by the writ Court. Hence, review application. The writ Court after having perused the undertaking filed by the petitioner directed for release of the money upon issuing a fresh cheque by the President/Secretary of the petitioner Grih Nirman Samiti.

Mr. Parbat would argue that the appellate Court granted the petitioner liberty to raise claim before the writ Court and hence the present review petition. Referring to Section 31 of the Negotiable Instruments Act, it has been submitted that it is the liability of the drawee of the cheque to compensate the drawer in case of unjustified dishonour of the cheque.

The broad contours of the case may be noticed with relevant brevity; the petitioner society was taken over by Sri Raghu Nandan Prasad as its President. Election dispute was pending relating to the election of the petitioner. In the meanwhile, a cheque was issued by the petitioner for drawing the amount running into lacs allegedly for depositing the same in another Bank in term deposit scheme to earn higher interest. Apprehending misuse of the money,



the Bank during ongoing election dispute did not honour it. In such circumstance, the writ petition was filed by the petitioner in which this Court apprehending the similar misuse of the fund directed the petitioner to file an affidavit or undertaking that he would not misutilize the fund. On such affidavit having been filed the writ petition was disposed of by directing the respondent Bank to honour the fresh cheque issued by the petitioner. Contention of Mr. Parbat is that the prayer of the petitioner with regard to payment of adequate compensation was not addressed by the writ Court and as such, he is entitled to maintain the review application for the said relief particularly when an opportunity was granted in this regard by the writ appeal Court.

Per contra, the respondent Bank has opposed the prayer. Relying on **2015(2) PLJR 69 [The Union of India through the Controller General of Defence Accounts & Ors. vs. Smt. Meena Devi]** it has been submitted that the scope of review jurisdiction is very limited. There is nothing on record that the petitioner on account of non honouring of cheque suffered any monetary loss as the rate of interest he claims to have earned on the term deposit in another Bank has not been disclosed. The writ Court also apprehended misuse of the fund of the samiti and only upon filing of an undertaking the order was passed. The pleadings on record are vague which disentitles the review petition to seek such relief by invoking the limited review

jurisdiction of the Court.

In law, it shall be presumed that the other relief prayed for in the application were either not pressed or refused by the Court. The review jurisdiction of this Court is not that of an appeal. If there is an error apparent on the face of the record then only a review can be asked for. The law is settled that review proceeding can not be equated with the original writ jurisdiction of the Court. The finding of the writ Court cannot be said to be perverse as the pleadings with regard to the relief for compensation was based on simply vague pleadings. Further, the jurisdiction of the review Court cannot be equated with the writ appeal Court which is continuation of the proceeding. Mr. Parbat has relied on few judgments which are not relevant for the purpose of disposal of the review application and are, therefore not noticed.

Considering the above facts and the narrow confines of the jurisdiction invoked by the petitioner, this Court is not persuaded to allow the review application. It is, accordingly, dismissed.

(Kishore Kumar Mandal, J)

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