

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.531 of 2016

In

Civil Writ Jurisdiction Case No. 4177 of 2004

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Jang Bahadur Singh, Son of late Ramyatan Singh, Resident of Village-Sikria, P.S.- Bhewar Sikaria, District -Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Chief Secretary, Govt. of Bihar, Patna.
3. The Director General of Police, Govt. of Bihar, Patna.
4. The District Magistrate, Jehanabad.
5. The Superintendent of Police, Jehanabad.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Binit Kumar, Adv.

For the Opposite Party/s : Mr. Rajiv Kumar, AC to GA-5

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 20-07-2016

Heard.

The present MJC application has been filed for restoration of CWJC No.4177 of 2004, which stood dismissed for want of prosecution by an order dated 13.07.2015.

The aforesaid CWJC No. 4177 of 2004 was filed on 02.04.2004 and when the matter was listed for hearing on 14.05.2015, a Bench of this Court (Coram: Shivaji Pandey, J.) had passed an order as under:-

“The counsel for the State is present but the counsel for the petitioner is absent.

In this case, the petitioner is claiming the compensation amount on account of undue harassment, demolition of his house and destruction of his entire movable and immovable property which compelled him and his family members to face a penurious life which has put them in such lurch due to which they could not rehabilitate in the society.

As the counsel for the petitioner is not

present, the case is passed over for the day. If he will remain absent, the Court will pass necessary order.”

Once again, when the matter was taken for consideration on 13.07.2015, none had appeared on behalf of the petitioner. Hence, this Bench had passed order as under:-

“Despite repeated calls, none appears on behalf of the petitioner in support of the present writ petition though the name of learned counsel appearing on behalf of the petitioner is printed in the daily cause list. This matter was taken up for consideration on 14.05.2015 by a Bench of this Court (Coram: Shivaji Pandey, J.), but on that date also, none had appeared on behalf of the petitioner.

Learned AC to GA-5, appearing on behalf of the respondents, submits that the claims raised on behalf of the petitioner in the present writ petition are based on dispute question of facts and therefore, the present writ petition is not maintainable.

Be that as it may, since none is appearing on behalf of the petitioner, the present writ petition stands dismissed for want of prosecution.”

The aforesaid CWJC No.4177 of 2004 was filed on 02.04.2004 and since then more than 12 years have already elapsed, but all the subsequent developments, which might have taken place during the interregnum period, have not been brought on record.

In above view of the matter, this Court is of the opinion that, instead of restoring the aforesaid CWJC No. 4177 of 2004 to its original file, the interest of justice shall be sub-served, if the petitioner is granted liberty to file a fresh writ petition in the same subject matter, after bringing on record all the subsequent developments, which might have taken place during the

interregnum period and further if the cause of action still survives. It is ordered accordingly.

If such a fresh writ petition is filed on behalf of the petitioner within a period of one month from today with a certified copy of the present order, then the same shall be considered and decided on its own merits, without being prejudiced/influenced by dismissal of CWJC No. 4177 of 2004 for want of prosecution by an order dated 13.07.2015.

The present MJC application stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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