

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3445 of 2016
In
Civil Writ Jurisdiction Case No. 20841 of 2010

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M/S B. Prasad & Company through its Partner Ajay Kumar S/o Sri Bisheshwar Prasad, resident of P & T Colony, Harnichak, Anisabad, P.S.- Phulwari Sharif, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Urban Development & Housing Department, New Secretariat Building, Patna.
2. The Municipal Corporation through its Municipal Commissioner having its office at Budha Marg, P.O.- GPO, Patna P.S.- Kotwali, District- Patna.

.... Opp. Party/s

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Appearance :

For the Petitioner/s : Dr. Anshuman, Adv.

For the Opp. Party No.1 : Mr. Kapileshwar Pd. Yadav, G.P. 11

Mr. Umesh Kumar Roy, AC to GP-11

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 14-12-2016 Heard the learned counsel appearing on behalf of the petitioner and the learned G.P. 11, appearing on behalf of the opposite party no.1.

The present M.J.C. application has been filed on behalf of the writ petitioner for restoration of C.W.J.C. No. 20841 of 2010, which stood dismissed for want of prosecution by an order dated 24.4.2015.

The learned counsel appearing on behalf of the petitioner submits that, in fact, for the identical reliefs, which were sought for in the main writ petition, the petitioner had earlier moved this Court in C.W.J.C. No. 5385 of 2009, which was finally disposed of by a co-ordinate Bench of this Court by an order dated 30.11.2009. He further submits that in view of the aforesaid order dated 30.11.2009 passed in C.W.J.C. No. 5385 of 2009, the aforesaid writ petition ought not to have been filed, rather a contempt petition could have been filed against the concerned authorities for non-compliance of the Court's order. However, he



submits that since a fresh writ petition vide C.W.J.C. No. 20841 of 2010 was filed, which has been dismissed for want of prosecution by an order dated 24.4.2015, even M.J.C. application for initiating a contempt proceeding may not be properly considered, if the position is not clarified by this Court.

The learned G.P. 11 also submits that the fresh writ petition was not maintainable, and the petitioner ought to have filed a contempt petition if earlier order of this Court was not complied with.

In view of the aforesaid fair submissions made by the learned counsel appearing on behalf of the parties, this Court is of the opinion that instead of restoring C.W.J.C. No. 20841 of 2010 to its original file, interest of justice shall be sub-served if the petitioner is granted liberty to file an appropriate petition including a contempt petition for grant of appropriate relief to the petitioner in the factual matrices of the present case. It is ordered accordingly.

If an appropriate petition is filed on behalf of the petitioner for grant of appropriate reliefs 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 merit without being prejudiced/ influenced by dismissal of C.W.J.C. No. 20841 of 2010 vide order dated 24.4.2015.

The present M.J.C. application stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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