

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.2253 of 2016  
IN  
Civil Writ Jurisdiction Case No. 7603 of 2012**

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1. Sanjeev Tulsyan, Son of Late Prahlad Rai Tulsyan, Resident of Mayaram Market, Mayaram Road, P.S. Khagaria, District- Khagaria.

.... .... Appellant

Versus

1. The State of Bihar through Secretary.
2. The Commissioner, Munger Division, District, Munger.
3. The District Magistrate, Munger-cum-Licensing Authorities, District- Munger.
4. Executive Engineer Building Construction, Department, Khagaria.
5. Krishna Cinema through its License Vijay Kumar Gupta, Son of Late Parmanand Gupta, R/o Main Road, Khagaria, P.S.- Khagaria, Dist- Khagaria.
6. Shard Kumar Tulsyan, S/o Raj Kumar Tulsyan, R/o Mayaram Road, P.S. & Dist- Khagaria.

.... .... Respondents

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**Appearance :**

For the Appellant/s : Mr. S.D. Sanjay, Sr. Advocate.  
Mr. Alok Kumar Agrawal, Advocate.  
Mrs. Priya Gupta, Advocate.  
Mrs. Parul Prasad, Advocate.  
Mrs. Vipula Karoria, Advocate.

For the Respondent/s : Mr. Raj Ballabh Prasad Yadav, AAG-11

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE SUDHIR SINGH**

**ORAL JUDGMENT**

**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date: 03-05-2017**

Having heard Sri S.D. Sanjay, learned counsel appearing on behalf of the appellant and Sri Raj Ballabh Prasad, learned counsel appearing on behalf of the State and considering the limited relief claimed in this appeal to say that the directions issued by the learned writ court in CWJC No. 7603 of 2012 to the extent of directing for the Registrar General to issue notice to the petitioner under Section 340 of



the Cr.P.C. and to take action is illegal and unsustainable and the relief is only to quash the aforesaid directions, it is not necessary to notice the private respondent nos. 5 and 6 in the matter.

On going through the record, we find that the aforesaid direction to issue notice to the petitioner under Section 340 of the Cr.P.C. has been undertaken by the learned writ court only on the account of the fact that by suppressing the fact about filing of an earlier writ petition CWJC No. 5958 of 2012, this writ petition has been filed and as the petitioner has indulged in misuse of the process of law by suppression of fact the learned writ court was of the considered view that action under Section 340 of the Cr.P.C. should be taken.

Sri S.D. Sanjay, learned counsel for the appellant invited our attention to the prayer made in CWJC No. 5958 of 2012, the pleadings in the said case and on verifying the same, along with the original record of CWJC No. 5958 of 2012, we find that except for the fact that the petitioner was Sanjiv Tulsiyani in the said case also. The relief claimed in the said writ petition with regard to the Cinema Hall namely Sri Ram Talkies, Khagaria, it's a different cinema hall and the relief claimed in CWJC No. 7603 of 2012 was with regard to a different cinema hall bearing name M/s Krishna Cinema, situated in Khagaria. That being so, it's a case where with regard to two similar



establishments namely two cinema halls, one Sri Ram Talkies, Khagaria and other M/s Krishna Cinema, Khagaria, two different writ petitions were filed and misconstruing the fact that for the same relief pertaining to the same cinema hall, two different writ petitions have been filed by suppressing the fact that learned writ court directed for taking action against the petitioner under Section 340 of the Cr.P.C. We see that the aforesaid was consequence of the result of the petitioner and his counsel being absent when the case CWJC No. 7603 of 2012 was taken up for consideration on 16.09.2015.

Finding the petitioner not to have suppressed any fact or misuse the process of law, we allow the appeal and quash the direction issued by the Registrar General to initiate proceeding against the appellant under Section 340 of the Cr.P.C. Allowing the appeal to that extent and quashing the said direction issued on 16.09.2015 in CWJC No. 7603 of 2012, the appeal stands allowed and disposed of.

**(Rajendra Menon, CJ)**

**(Sudhir Singh, J)**

Amit/-

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| AFR/NAFR          | NAFR       |
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