

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.87 of 2016

In
Civil Writ Jurisdiction Case No. 13528 of 2015

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1. Ashok Kumar Khare son of Late Dawarika Nath Khare, Ravi Niketan,
Ara Garden, P.S.- Rupaspur, Baily Road, Danapur, District- Patna

.... Petitioner

Versus

1. South Bihar Power Holding Corporation through its Chief Managing
Director, Vidyut Bhawan Patna
2. Managing Director, Patna Electric Supply Undertaking, PESU, Patna
3. The Electrical Superintending Engineer, Electric Supply Circle PESU
(E), Kankarbagh, Patna
4. The Electrical Executive Engineer, Electric Supply Division,
Kankarbagh, Patna
5. The Assistant Electrical Engineer, Electric Supply Sub Division,
Kankarbagh, Patna
6. The Junior Electrical Engineer, Electric Supply Section, Hanuman Nagar,
Kankarbagh, Patna
7. Priya Ranjan Bharti @ Priya Ranjan Mishra son of Sri Harish Chandra
Prasad Mishra, resident of Mohalla S.K. Colony, P.S. Patrakar Nagar, Town
and District Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Abhay Kumar Singh

For the Respondent/s : Mr. Vinay Kirti Singh

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**CORAM: HONOURABLE MR. JUSTICE SAMARENDRA
PRATAP SINGH**
ORAL ORDER

8 19-07-2017 The review petitioner Ashok Kumar Khare seeks review of
the order, dated 4.9.2015, passed in C.W.J.C. No.13528 of 2015
filed by respondent No.7 Priya Ranjan Bharti @ Priya Ranjan
Mishra, on the ground that the same has been obtained without
making him a party respondent, though he was main contesting
party in C.G.R.F. Case No.89 of 2015.

2. The facts of the case in brief are that the writ petitioner,
who is respondent No.7 herein and a tenant in Flat No. SK-49,



Kankarbagh, Patna filed an application for grant of fresh electric connection on 20.1.2014 which was rejected after some month. He again filed an application for electric connection on 17.11.2014, which, this time, was granted. However, realizing the mistake, the respondent South Bihar Power Holding Company issued notice to the writ petitioner and thereafter disconnected his electric connection as he did not produce the necessary 'No Objection' from the house owner. Being aggrieved, the writ petitioner moved the learned Consumer Grievance Redressal Forum (hereinafter referred to as 'the C.G.R.F.') vide C.G.R.F. Case No.89 of 2015, which granted interim stay against disconnection of line pending hearing of the case. As despite the interim order, the electric connection was not granted, the writ petitioner filed C.W.J.C. No.13528 of 2015, which was disposed of vide order, dated 4.9.2015 observing that the respondent authorities would restore the electric connection of the writ petitioner in terms of the interim order, dated 11.8.2015 passed by learned C.G.R.F.

3. This Court earlier on 25.1.2017 clarified that nothing in the order of this Court dated 4.9.2015 passed in C.W.J.C. No.13528 of 2015, would be construed as having expressed any opinion on the merit of the case, which is to be decided by the C.G.R.F. within three months. During the pendency of this review



petition, the C.G.R.F. has passed final order on 12.5.2017 directing the Electrical Executive Engineer, Electric Supply Division, Kankarbagh, Patna not to disconnect the electric connection No.010102579321 of writ petitioner subject to final verdict in Eviction Suit No.39 of 2015.

4. The case of review petitioner is that respondent No.7 Priya Ranjan Bharti @ Priya Ranjan Mishra is admittedly his tenant in his Flat No. No. SK-49, Kankarbagh, Patna since January, 2009 and Flat No. SK-48, Kankarbagh, Patna belonged to his elder brother Sri P.K. Khare, who died on 11.2.2011. There was common electric connection for both the flats, from which respondent No.7 was consuming electricity. After death of his brother Sri P.K. Khare on 11.2.2011, his flat remained locked as he had only two daughters who lived outside, his wife having pre-deceased him. Since his death in 2011, respondent No.7 stopped paying rent which mounted over Rs.55,000/- in 2013.

5. The review petitioner has made the following submissions:

i) The writ petitioner deliberately did not make him a party respondent in C.W.J.C. NO.13528 of 2015, though he was party before the C.G.R.F. and by concealing material facts obtained order in his favour;



ii) The new coram of learned C.G.R.F. had disposed of C.G.R.F. Case No.89 of 2015 in most perfunctory manner, without providing hearing even once.

6. Elaborating his submissions, the review petitioner submits that after direction of this Court, dated 25.1.2017, one Mr. M.P. Srivastava, Chair Person and Mr. G.K. Srivastava, Member of C.G.R.F. fixed the case on 10.3.2017 for hearing in which both the review petitioner and the Power Holding Company appeared. The review petitioner filed written statement, whereas its Electrical Executive Engineer also filed his statement dated 16.2.2017 favouring disconnection of supply of electric connection to the writ petitioner- respondent No.7. As the writ petitioner did not appear, the matter was adjourned to 26.4.2017, on which date also the writ petitioner did not appear and the case was reserved for final order. Furthermore, the writ petitioner also did not appear earlier on any single date of hearing i.e. 13.1.2016, 18.4.2016, 8.6.2016 and 12.8.2016. In the meantime, the new Chair Person Sri Satya Prakash and new Member Shri R.P. Singh, without hearing the review petitioner and without fixing any date passed final order, on 12.5.2017 in C.G.R.F. Case No.89 of 2015 in favour of the writ petitioner in utter violation of principle of natural justice.



7. So far as first submission of not making the review petitioner as party respondent in the writ proceeding (C.W.J.C. No.13528 of 2015), it is submitted that the review petitioner deliberately did not make him party and the writ petitioner obtained the order behind his back. The writ petitioner in reply to the statement of the review petitioner had tendered unqualified apology and submits that the mistake was bonafide.

8. As the mistake was grave and it was not denied by the writ petitioner that the review petitioner was party before the C.G.R.F., this Court contemplated awarding punishment against him. However, as Mr. Banwari Sharma, learned counsel for the writ petitioner took upon himself the mistake, this Court dropped the matter with warning to the writ petitioner to be more careful in future.

9. The second submission of the review petitioner that the final order was passed by the new Chair Person and new Member of C.G.R.F. who never heard the case requires consideration. However, the same cannot be gone into under review jurisdiction. The review petitioner submits that the matter may be referred to the Principal Secretary Energy-cum-C.M.D., South Bihar Power Holding Company to which Mr. Banwari Sharma, learned counsel for the writ petitioner has no objection.



10. As agreed by the parties, let the matter be examined and considered by the Principal Secretary Energy-cum-C.M.D., South Bihar Power Holding Company, after providing opportunity of hearing to both sides, within three months from the date of receipt/production of a copy of this order.

11. With the aforesaid observations and directions, this review petition is, accordingly, disposed of.

(Samarendra Pratap Singh, J)

Md.Jamaluddin Khan

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