

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No. 25 of 2017
Arising out of
Civil Writ Jurisdiction Case No. 2710 of 2015

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Arun Kumar Son of Late Ramgopal Mahensaria Proprietor of M/S Arunalay,
resident of E- 107, Raj Kishori Complex, Mulchand Path, Chitragupta Nagar
Kankarbagh, Patna 800020.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mr Arvind Kumar Chaudhary, the Secretary (Gram Vikash) Rural Development, Government of Bihar, Patna.
3. Mr Rahul Ranjan Mahiwal, the Deputy Development Commissioner Rural Development Patna, Bihar.
4. Mr Sudhir Kumar Rakesh the Joint Deputy Development Commissioner Rural Development Patna, Bihar.
5. S. S. P. Patna, Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Chandra Kant and Mr. Rajesh Dayal, Advocates
For the State	:	Mr. Sanjay Kumar, AC to AAG 4

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 17-09-2019

Heard Mr. Chandra Kant, learned counsel for the petitioner; learned AC to AAG 4 for the State and Mr. Rajesh Dayal, learned counsel who had filed the original contempt application.

2. The petitioner is also present.

3. In light of what has been recorded in the order dated 27.08.2019, Mr. Rajesh Dayal, learned counsel has filed an explanation. In the same, the stand is that the petitioner had not informed him of having already filed MJC No. 3672 of 2016, for the same cause of action for which the present application has



been filed. The Court had recorded in its earlier order that the petitioner had taken the stand that he had informed Mr. Rajesh Dayal, learned counsel of the development.

4. In view of the contrary assertion of the petitioner and Mr. Rajesh Dayal, learned counsel, both on oath, the Court cannot arrive at any specific finding as the same would require adducing of evidence etc.

5. This is one aspect of the matter. The other aspect is that under any circumstances, the petitioner who has filed the application under his signature and having affirmed the affidavit, is mainly responsible for what has been stated in the said affidavit in which admittedly a patently false statement has been made that the petitioner had not moved earlier for initiation of contempt proceeding against the opposite parties for violation of the order dated 18.02.2015. The said statement was made despite the petitioner already having filed MJC No. 3672 of 2016, alleging violation of the same order dated 18.02.2015.

6. In the show cause filed on behalf of the petitioner through Mr. Chandra Kant, learned counsel, the stand is that he had already informed Mr. Rajesh Dayal, learned counsel and further that he is going through a rough patch as his elder son was burnt alive in Bangalore and his wife and children live there who



are supported by him and his wife and they also spend time with them and also a huge amount of money.

7. Having considered the matter, though the Court finds that there is serious lapse on behalf of the petitioner and definitely lack of due diligence on the part of Mr. Rajesh Dayal, learned counsel, but without going into the issue, the Court finds that the matter would lead to unfortunate consequences, both for the private litigant i.e., the petitioner as well as for the officer of the Court, which this Court would avoid to the extent possible.

8. As there has been realization of their serious lapse by the parties concerned and apology tendered by them, the same is accepted. The issue stands consigned.

9. The contempt application stands dismissed with a warning to the petitioner that if in future he ventures into any such misadventure, the Court would come down heavily on him. The Court would also caution learned counsel to be careful in future so that such type of litigants do not misuse the office of the learned counsel to play fraud with the Court.

(Ahsanuddin Amanullah, J.)

P. Kumar

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