IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3529 of 2016

==

Babli Devi Wife of Late Dilip Paswan Resident of Mohalla - Machhmara, Ward No. 31, P.S. Kishanganj, District - Kishanganj

... ... Petitioner

Versus

1. The State Of Bihar
2. The District Magistrate, Kishanganj
3. The Commissioner, Commercial Taxes, Bihar, Patna
4. The Assistant Commissioner, Commercial Taxes In Charge, Kishanganj Circle, Kishanganj

... ... Respondents

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with

Civil Writ Jurisdiction Case No. 3917 of 2016

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Dhananjay Kumar Suri Son of Late Ramjatan Prasad Saha Resident of Mohalla - Khagra, Karbala, Ward No. 32, P.S. Kishanganj, District - Kishanganj

... ... Petitioner

Versus

1. The State Of Bihar
2. The District Magistrate, Kishanganj
3. The Commissioner, Commercial Taxes, Bihar, Patna
4. The Deputy Commissioner of Commercial Taxes, Kishanganj Circle, Kishanganj
5. The Assistant Commissioner, Commercial Taxes (In Charge), Kishanganj Circle, Kishanganj

... ... Respondents

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with

Civil Writ Jurisdiction Case No. 3681 of 2016

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Md. Merajuddin Son of Late Naimuddin, Resident of Mohalla- Panibagh, P.S.- Kishanganj, District- Kishanganj

... ... Petitioner

Versus

1. The State Of Bihar
2. The District Magistrate, Kishanganj
3. The Commissioner, Commercial Taxes, Bihar, Patna
4. The Assistant Commissioner, Commercial Taxes (In Charge), Kishanganj Circle, Kishanganj

... ... Respondents

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with

Civil Writ Jurisdiction Case No. 3662 of 2016

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Vijay Kumar Saha son of Late Ramjatan Prasad Saha, Resident of Mohalla-Khagra Karbala, Ward No. 32, P.S.- Kishanganj, District- Kishanganj

... ... Petitioner

Versus

1. The State Of Bihar
2. The District Magistrate, Kishanganj.
3. The Commissioner, Commercial Taxes, Bihar, Patna.
4. The Assistant Commissioner, Commercial Taxes In Charge, Kishanganj Circle, Kishanganj.

... ... Respondents

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with

Civil Writ Jurisdiction Case No. 7880 of 2017

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Saif Ali Son of Anwar Ali, Resident of Mohalla-Janki Nagar, P.S.- Janki Nagar, District- Purnia.

... ... Petitioner

Versus

1. The State Of Bihar
2. The District Magistrate , Araria.
3. The Commissioner, Commercial Taxes, Bihar, Patna.
4. The Assistant Commissioner, Commercial Taxes, Forbesganj Circle, Forbesganj.

... ... Respondents

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with

Civil Writ Jurisdiction Case No. 3842 of 2016

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Md. Rafik Son of late Md. Bakrid Resident of Village Khagra karbala p.s Kishanganj District Kishanganj.

... ... Petitioner

Versus

1. The State Of Bihar
2. The District Magistrate, Kishanganj.
3. The Commissioner Commercial Taxes, Bihar Patna
4. The Assistant Commissioner, Commercial Taxes (In Charge) Kishanganj Circle, Kishanganj.

... ... Respondents

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with

Civil Writ Jurisdiction Case No. 3734 of 2016

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Md. Ismail Son of late Md. Aslam Resident of Mohalla- Dharamganj ward no. 28, P.S Kishanganj District Kishanganj.

... ... Petitioner

Versus

1. The State Of Bihar
2. The District Magistrate, Kishanganj.
3. The Commissioner Commercial Taxes Bihar Patna.

4. The Assistant Commissioner, Commercial Taxes (In Charge) Kishanganj Circle, Kishanganj.

... ... Respondents

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with

Civil Writ Jurisdiction Case No. 5993 of 2016

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Sunil Sarkar Son of Late Pran Krishana Sarkar Resident of Mohalla - Railway Colony, P.S. - Kishanganj, District - Kishanganj.

... ... Petitioner

Versus

1. The State Of Bihar
2. The District Magistrate, Kishanganj.
3. The Commissioner, Commercial Taxes, Bihar, Patna.
4. The Assistant Commissioner, Commercial Taxes (In Charge), Kishanganj Circle, Kishanganj.

... ... Respondents

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with

Civil Writ Jurisdiction Case No. 3867 of 2016

==

Md. Rauf son of Late Md. Ibrahim, Resident of Mohalla- Khagra, Ward No. 31, P.S.- Kishanganj, District- Kishanganj.

... ... Petitioner

Versus

1. The State Of Bihar
2. The District Magistrate, Kishanganj.
3. The Commissioner, Commercial Taxes, Bihar, Patna.
4. The Assistant Commissioner, Commercial Taxes (In Charge), Kishanganj Circle, Kishanganj.

... ... Respondents

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with

Civil Writ Jurisdiction Case No. 3653 of 2016

==

Vishal Prakash Son of Om Prakash Gupta, Resident of Mohalla- Khagra, Ward No. 32, P.S. Kishanganj, District- Kishanganj.

... ... Petitioner

Versus

1. The State Of Bihar
2. The District Magistrate, Kishanganj.
3. The Commissioner, Commercial Taxes, Bihar, Patna.
4. The Assistant Commissioner, Commercial Taxes (Incharge), Kishanganj Circle, Kishanganj.

... ... Respondents

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with

Civil Writ Jurisdiction Case No. 3670 of 2016

==

Md. Parvej son of Md. Haseeb, Resident of Mohalla-Panibagh, Ward No. 03, Mohiuddinpur, P.S.- Kishanganj, District- Kishanganj.

... ... Petitioner

Versus

1. The State Of Bihar
2. The District Magistrate, Kishanganj.
3. The Commissioner, Commercial Taxes, Bihar, Patna.
4. The Assistant Commissioner, Commercial Taxes (In Charge), Kishanganj, Circle, Kishanganj.

... ... Respondents

with

Civil Writ Jurisdiction Case No. 3682 of 2016

Mohan Singh son of Late Jagdish Singh, Resident of Mohalla- Railway Colony, P.s.- Kishanganj, District- Kishanganj

... ... Petitioner

Versus

1. The State Of Bihar
2. The District Magistrate, Kishanganj
3. The Commissioner, Commercial Taxes, Bihar, Patna
4. The Assistant Commissioner, Commercial Taxes (In Charge), Kishanganj Circle, Kishanganj

... ... Respondents

Appearance :

(In Civil Writ Jurisdiction Case No. 3529 of 2016)
For the Petitioner/s : Mr.Radha Mohan Singh
For the Respondent/s : Mr.Lalit Kishore- Paag
(In Civil Writ Jurisdiction Case No. 3917 of 2016)
For the Petitioner/s : Mr.Radha Mohan Singh
For the Respondent/s : Mr.Lalit Kishore- Paag
(In Civil Writ Jurisdiction Case No. 3681 of 2016)
For the Petitioner/s : Mr.Radha Mohan Singh
For the Respondent/s : Mr.Lalit Kishore- Paag
(In Civil Writ Jurisdiction Case No. 3662 of 2016)
For the Petitioner/s : Mr.Radha Mohan Singh
For the Respondent/s : Mr.Lalit Kishore- Paag
(In Civil Writ Jurisdiction Case No. 7880 of 2017)
For the Petitioner/s : Mr.Radha Mohan Singh
For the Respondent/s : Mr.Lalit Kishore- Paag 1
(In Civil Writ Jurisdiction Case No. 3842 of 2016)
For the Petitioner/s : Mr.Radha Mohan Singh
For the Respondent/s : Mr.Lalit Kishore- Paag
(In Civil Writ Jurisdiction Case No. 3734 of 2016)
For the Petitioner/s : Mr.Radha Mohan Singh
For the Respondent/s : Mr.Lalit Kishore- Paag
(In Civil Writ Jurisdiction Case No. 5993 of 2016)
For the Petitioner/s : Mr.Radha Mohan Singh
For the Respondent/s : Mr.Lalit Kishore Paag
(In Civil Writ Jurisdiction Case No. 3867 of 2016)
For the Petitioner/s : Mr.Radha Mohan Singh
For the Respondent/s : Mr.Lalit Kishore- Paag
(In Civil Writ Jurisdiction Case No. 3653 of 2016)
For the Petitioner/s : Mr.Radha Mohan Singh
For the Respondent/s : Mr.Lalit Kishore- Paag
(In Civil Writ Jurisdiction Case No. 3670 of 2016)
For the Petitioner/s : Mr.Radha Mohan Singh

For the Respondent/s : Mr.Lalit Kishore Paag
(In Civil Writ Jurisdiction Case No. 3682 of 2016)
For the Petitioner/s : Mr.Radha Mohan Singh
For the Respondent/s : Mr.Lalit Kishore- Paag
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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 31-01-2019

Heard learned counsel for the parties.

All these writ petitions were filed to question the notices whereby the respondent Assistant Commissioner, Commercial Taxes, Kishanganj Circle, Kishanganj had put the respective petitioners on notice under section 28(1) of the Value Added Tax Act, 2005, (hereinafter referred to as 'the VAT') on their failure to get themselves registered. A prayer is alongside made for issuance of writ in the nature of Mandamus commanding the respondents to collect 'the VAT' as per the sale notification.

When these matters were earlier taken up, a preliminary objection was raised by Mr. Vikash Kumar, learned SC-11, to question the maintainability of the writ petitions as the cause of action had ceased to exist on the voluntary registration obtained by the petitioners. According to learned counsel, on such account, the notices impugned had since been withdrawn. An affidavit to such effect was also filed placing on record consequential action upon such registration leading to assessment orders, which are now sought to be challenged through the interlocutory applications filed in the respective writ petitions.

Mr. Sanjay Singh, learned counsel appearing for the petitioners in the respective writ petitions assisted by Mr. Radha Mohan Singh endeavours to question these assessment orders which according to him would suffer the same infirmity as pointed out in respective notices which were initially put to question in these writ petitions. He, thus, seeks leave to allow the petitioners to question these assessment orders which has since been passed in the respective cases, in the present writ petition itself.

The prayer made by the petitioners through the interlocutory application to seek leave of the Court to question the assessment orders is opposed by Mr. Vikash Kumar, learned SC11, on grounds that it lacks of foundational facts as well in view of alternative remedy of appeal so available to the petitioners.

We have heard learned counsel for the parties and perused the records and we are persuaded to accept the objection raised by Mr. Vikash Kumar, learned SC-11, because by passage of time and the developments noted, the foundation on which the present batch of writ petition rested has undergone a change and translated into a formal order of assessment which is sought to be challenged by Mr. Singh through the interlocutory application in question, but then apart from the issue of alternative remedy so available under the Statutes, even the foundational facts which may arise to support such challenge, is completely missing in the writ petitions and cannot be permitted to be supplemented by way of interlocutory applications.

With the observations above, the writ petitions together with the interlocutory applications are disposed of with liberty to the petitioners to take lawful recourse as available to them to question the assessment orders put up for challenge through the Interlocutory Applications filed in the respective writ petitions.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.02.2019
Transmission Date	NA