

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2398 of 2017

In
Civil Writ Jurisdiction Case No.17699 of 2016

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Bishwanath Ram Son of late Nathuni Ram Resident of Bhauara Ambedkar
Nagar Madhubani, P.O. P.S. District- Madhubani.

... .. Petitioner

Versus

1. The State Of Bihar through Sri Chaitanya Prasad, son of not known the Secretary Urban Development Housing Department, Govt of Bihar, New Secretariat, Patna
2. Shri Jatashankar Jha S/o not known the Executive Officer, through the Nagar Parishad Madhubani.
3. Sri Jatashankar Jha S/o Not Known The Executive Officer, Nagar Parishad Madhubani.

... .. Opposite Parties

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Appearance :

For the Petitioner/s : Mr.Ashutosh Kumar Jha, Advocate
For the Opposite Party/s : Mr.Yogendra Prasad Sinha - Aag 7

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 01-05-2019

Heard learned counsel for the petitioner and learned
counsel for the State.

2. This application under Section 12 of the Contempt of Courts Act read with Article 215 of the Constitution of India has been filed by the petitioner for initiation of the contempt proceeding against opposite parties for their willful



disobedience of the order dated 17.03.2017 passed in CWJC No. 17699 of 2016.

3. By the aforesaid order dated 17.03.2017, the Executive Officer, Nagar Parishad, Madhubani was directed to pay all the retiral dues of the petitioner's wife within a period of four months from the date of receipt/production of a copy of this order failing which the petitioner was made entitled to receive interest at the rate of seven per cent per annum from the date the payment became due till the date of actual payment.

4. Learned counsel for the petitioner contended that in the light of the order passed by this Court, a representation was filed by the petitioner on 27.03.2017 annexing a copy of the order dated 17.03.2017 passed in CWJC No. 17699 of 2016. However, no payment was made to the petitioner within the stipulated period of four months. He contended that the opposite parties have failed to pay the retiral dues and their action amounts to willful defiance of the order passed by this Court.

5. A show-cause has been filed on behalf of opposite party nos. 2 and 3. Para-3 of the show-cause reads as under :-

“3. That it is humbly stated and submitted that the Petitioner has been paid part of retiral dues of his wife, namely, Sudama Devi being



Rs.50,000/- earlier and the reset amount of Provident Fund of Rs.41,957/- and Gratuity of Rs.3,15,645/- and Earn Leave of Rs.1,37,736/- Total being Rs.4,95,338/- Rs.50,000/- =4,45,338/- has been paid to him vide Cheque No.863493 dated 20.01.2018 along with arrear of salary being Rs.3,30,106/-. Sum of total Rs.7,75,444/- as per admissible dues payable to the petitioner at present.”

6. Learned counsel appearing for opposite party, Executive Officer, Nagar Parishad, Madhubani has submitted that it is not a case of either willful or deliberate non-compliance of the order passed by this Court. The order passed by this Court has been fully complied with. The delay of few months occurred due to non-availability of fund for which the deponent has tendered unqualified and unconditional apology. He submitted that revised arrear on the basis of 5th and 6th pay revision has been allowed by the State Government recently on 27.12.2017. The payment as per revised arrears would also be considered and made soon after the fund is received from the State Government.

7. Having considered the submissions made on behalf of the parties, this Court is of the opinion that it is not a case of either deliberate or willful non-compliance of the order passed



by this Court. Hence, no case for initiation of contempt proceeding
is made out. The application is disposed of.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.05.2019
Transmission Date	NA

