IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.102 of 2021
In
Civil Writ Jurisdiction Case No.16766 of 2019

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Arun Kumar son of Late Siya Ram Singh resident of Village and P.O. Bandeya, P.S. Bandeya Rukandi, District Aurangabad - at present residing at Sharma Bhawan, Rajiv Nagar Road No. 8, P.S. Rajiv Nagar, Town and District Patna.

... ... Petitioner

Versus

1. Bihar State Building Construction Corporation Ltd. a Government of Bihar Undertaking having its Registered Office at Patna 800001 (Bihar) - through its Managing Director.
2. Managing Director, Bihar State Building Construction Corporation Ltd. a Government of Bihar Undertaking, Patna - 800001 (Bihar)
3. Chief General Manager, Bihar State Building Construction Corporation Ltd. a Government of Bihar Undertaking, Patna - 800001 (Bihar)
4. General Manager, Bihar State Building Construction Corporation Ltd. a Government of Bihar Undertaking, Patna - 800001 (Bihar)
5. Engineer - in - Chief - cum - Additional Commissioner - cum - Special Secretary, Building Construction Department, Government of Bihar Patna.

... ... Opposite Parties

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Appearance :

For the Petitioner : Mr. Umesh Prasad Singh, Senior Advocate
Mr. Vaibhava Veer Shanker, Advocate
For the Opposite Party State: Mr. Ashok Kumar, AC to AAG-11
For the Opposite Party Corporation: Mr. Tej Bahadur Singh, Senior Advocate
Mr. Brisketu Sharan Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

4 28-10-2021 Heard Mr. Umesh Prasad Singh, learned Senior Counsel assisted by Mr. Vaibhava Veer Shanker appearing on behalf of the petitioner and Mr. Tej Bahadur Singh, learned Senior Counsel assisted by Mr. Brisketu Sharan Pandey appearing on behalf of the Bihar State Building Construction Corporation Limited (Corporation for short). Mr. Ashok Kumar,

learned A.C. to AAG-11 has assisted this Court on behalf of the State of Bihar.

The petitioner seeks review of a judgment and order dated 10.03.2021 passed by a coordinate Bench of this Court in C.W.J.C. No. 16766 of 2019, whereby the petitioner's application under Article 226 of the Constitution of India challenging an order of black-listing has been dismissed.

Mr. Umesh Prasad Singh, learned Senior Counsel representing the petitioner has argued that there is an apparent error of record in the judgment and order under review. He has drawn my attention to paragraph 18 of the judgment and order under review, first sentence of which reads as under : -

> *"18. The plain and simple reading of the Bihar Contractors Registration Rules, 2007 is that a person, who wishes to do the contract work under the different work departments of the Government of Bihar, it's company is required to get registered with the Building Construction Department. Clause 4(kh) says that the Engineer-in-Chief or the Chief Engineer or the Junior Officer to the Chief Engineer, who is duly authorised by the State Government, shall be the registration authority. .."*

He has submitted that recording of the expression 'it's company' is an apparent error on record and, therefore, the judgment and order under review deserves to be recalled. According to him, the company is referable to the Corporation, which is a Company registered under the Companies Act. He has further submitted that apparently the authority, which passed the order of black-listing, did not have the jurisdiction to pass the order inasmuch as the petitioner had entered into contract with the Corporation, which has so far not adopted the Bihar Contractors Registration Rules, 2007. He has submitted that for any alleged misconduct on the part of the petitioner as a contractor, the Corporation could not have referred the matter to the Building Construction Department, Government of Bihar, for the purpose of taking action of black-listing. He has heavily relied on the Supreme Court's decision in case of ***Pratapchand Nopaji v. Kotrike Venkata Setty & Sons*****,** reported in **(1975) 2 SCC 208** and ***TRF Ltd. v. Energo Engg. Projects Ltd.*****,** reported in **(2017) 8 SCC 377** in support of his case.

Mr. Tej Bahadur Singh, learned Senior Counsel appearing on behalf of the Corporation has submitted that mention of the expression 'it's company' in paragraph 18 of the judgment and order under review is inconsequential for the purpose of the relief, which the petitioner is seeking in the present review application. He has submitted with reference to the Supreme Courts decision in case of ***Kamlesh Verma v. Mayawati***, reported in **(2013) 8 SCC 320** that review jurisdiction has its own limitations and this Court may not enter into the merits of the case, which has already been examined by a coordinate Bench of this Court in the judgment and order under review. He has specifically referred to paragraph 20 of the said decision.

Upon careful examination of the judgment and order under review and other materials on record including the rival submissions advanced on behalf of the parties, I find substance in submission made on behalf of the Corporation. The said expression 'it's company', even if it is an error of record, is inconsequential. The expression 'it's company' refers to a person/a contractor who is required to be registered under the provisions of the Rules of 2007. Paragraph 20 of the decision in case of ***Kamlesh Verma*** (supra) reads as under : -

> ***"20.*** *Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:*
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> ***20.1.*** *When the review will be maintainable:*
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> *(i) Discovery of new and*

important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;

(ii) Mistake or error apparent on the face of the record;

(iii) Any other sufficient reason.

The words "any other sufficient reason" have been interpreted in Chhajju Ram v. Neki [(1921-22) 49 IA 144 : (1922) 16 LW 37 : AIR 1922 PC 112] and approved by this Court in Moran Mar Basselios Catholicos v. Most Rev. Mar Poulose Athanasius [AIR 1954 SC 526 : (1955) 1 SCR 520] to mean "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in Union of India v. Sandur Manganese & Iron Ores Ltd. [(2013) 8 SCC 337 : JT (2013) 8 SC 275]

***20.2.** When the review will not be maintainable:*

(i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.

(ii) Minor mistakes of inconsequential import.

(iii) Review proceedings cannot be equated with the original hearing of the

case.

(iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.

(v) A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.

(vi) The mere possibility of two views on the subject cannot be a ground for review.

(vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.

(viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.

(ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived.”

It has been specifically laid down in paragraph 20.2, as noted hereinabove, that repetition of old and overruled argument is not enough to reopen concluded adjudications and minor mistakes of inconsequential import cannot be a ground for review of an order.

Considering the above, in my opinion, this case has no merit and it is accordingly dismissed.

(Chakradhari Sharan Singh, J)

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