

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.66 of 2023

In
Civil Writ Jurisdiction Case No.6245 of 2020

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1. The District and Sessions Judge Civil Court, Bhagalpur.
 2. The Judge in Charge, Civil Court, Bhagalpur.
 3. The Judge in charge, Civil Court, Naugachia.

... .. Petitioners

Versus

1. Ram Naresh Choudhary Son of Late Satyadev Choudhary, resident of village - Sonbarsha, P.S. - Bihpur, District - Bhagalpur.
2. The State of Bihar through the Principal Secretary, Finance Department, Government of Bihar, Old Secretariat, Bailey Road, Patna, Bihar.
3. The District Magistrate, Bhagalpur.
4. The District Accounts Officer, Bhagalpur.

... .. Opposite Parties

Appearance :

For the Petitioner/s	:	Mr.Satyabir Bharti, Advocate Mr.Abhishek Anand, Advocate Ms.Sushmita Sharma, Advocate
For the Opposite Party No. 1:	:	Mr. Sunil Kumar Singh, Advocate
For the State	:	Mr.Suman Kumar Jha, AC to AAG-3

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 10-07-2023 Heard learned counsel for the petitioners, learned counsel for the Opposite Party No. 1 and learned counsel for the State.

This review application has been filed seeking review of the order and judgment dated 26.06.2020 passed by the learned Writ Court in CWJC No. 6245 of 2020.

Learned counsel for the review petitioner submits that a writ application giving rise to CWJC No. 6245 of 2020 was filed by the O.P. No. 1 seeking to challenge the order dated



2nd August, 2005 (Annexure '1' to the review petition) by which the amount paid to the petitioner on grant of ACP had been recovered.

Learned counsel submits that during the Pandemic COVID-19 period when the Hon'ble Court was running in limited mode through online, the writ petition was presented but without serving the copy of the writ application on the present petitioners. It is submitted that a statement to this effect has been made in Paragraph '8' of the review petition. It is the specific case of the present petitioners that they were not served with a copy of the writ petition nor were noticed in the matter, soliciting their response which has resulted in error, apparent on the face of the record.

On notice, the O.P. No. 1 who was the writ petitioner has appeared and filed a response. This Court repeatedly called upon learned counsel for the O.P. No. 1 to show the stand of the writ petitioner – O.P. No. 1 with regard to the statements made by the review petitioners in Paragraph '8' of the petition.

Learned counsel for the O.P. No. 1 is unable to demonstrate from the counter affidavit of O.P. No. 1 any specific denial of the statements made in Paragraph '8' of the review petition.



Having heard learned counsel for the petitioners, O.P. No. 1 as also the State and upon perusal of the records, this Court finds that the specific statement made by the review petitioners in Paragraph '8' of the petition has not been denied by O.P. No. 1.

In such circumstance, this Court is persuaded to recall the order dated 26.06.2020 passed in CWJC No. 6245 of 2020 and allow this review petition.

At this stage, learned counsel for the O.P. No. 1 has also raised an issue of limitation in filing of the review petition, however, this Court finds that by virtue of the order of the Hon'ble Supreme Court in *Suo Moto Writ (Civil) No. 5 of 2020* as well as the judgment of the Hon'ble Full Bench of this Court in *Civil Writ Jurisdiction Case No. 5633 of 2020*, the period with effect from 24.03.2020 to 15.03.2022 will be excluded, further this being a review petition filed for recall of an order passed by a Writ Court under Article 226 of the Constitution of India, this Court is persuaded to take a view that the period of limitation in the instant case would be governed by Article 137 of Schedule I of the Limitation Act which provides for a period of three years as period of limitation. Hence, even this ground of the O.P. No. 1 would fail.



This review application is allowed. Let the writ application be placed before an appropriate Bench after seeking permission of Hon’ble the Chief Justice.

(Rajeev Ranjan Prasad, J)

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