

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1347 of 2023

In
Letters Patent Appeal No.198 of 2015

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Dewashish Ghosh, aged about 53 years, Gender-Male, Son of Late Anil Chandra Ghosh, Resident of Village- Rasiyari, Police Station- Ghanshyampur, District- Darbhanga at present Rajpur Colony, Karamganj, P.O and P.S- Laheriasarai, Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. Sri Pratya Amrit, Son of not Known, the Additional Chief Secretary cum Principal Secretary, Health Department, Bihar, Patna.
3. Dr. Sunil Kumar Jha, Son of not Known, the Director-in-Chief, Health Services, Bihar, Patna.
4. Dr. Rishikesh Pandey, Son of not Known, the Civil Surgeon cum Chief Medical Officer, Madhubani.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Prafull Chandra Jha, Advocate
For the Opposite Party/s :		Mr. S.D. Yadav, AAG 9
		Mr. Anil Kumar verma, AC to AAG 9

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 06-11-2023

The present contempt petition- MJC No.1347 of 2023 is filed for non-compliance of the order dated 11.12.2017 passed in LPA No. 198 of 2015.

2. LPA No. 198 of 2015 arising out of CWJC No. 4661 of 2012 was filed by the petitioner Dewashish Ghosh, which was disposed of in the light of order passed in LPA No.1518 of 2010



and connected matter whereas perusal of order passed in LPA No. 1518 of 2010 and connected matter which was disposed of in terms of LPA No. 230 of 2011 decided on 29.03.2011 in other words original order dated 29.03.2011 passed in LPA No. 230 of 2011. In this background the petitioner filed MJC No. 339 of 2018 which was disposed on 16.02.2018. In the meanwhile, Civil Review No.165 of 2011 was filed by the State of Bihar in LPA No. 230 of 2011 which was disposed of on 05.12.2018. In the last paragraph the following observation has been made:-

*“In our opinion, in view of the authoritative pronouncement in the case of **Kirti Narayan Prasad** (supra) the issue has been put at rest but having observed thus, we grant liberty to the petitioner to move afresh in case the situation changes in future by order passed on the appeals, yet pending before the Supreme Court.”*

3. Reading of the aforementioned order passed in Civil Review No. 165 of 2011 decided on 05.12.2018, the petitioner is not permitted to file second MJC-contempt matter, therefore the present MJC is not maintainable for the second time in so far as non-compliance of the order of LPA No. 198 of 2015 read with Civil Review No. 165 of 2011 dated 11.12.2017 and 05.12.2018 respectively.



4. Accordingly, the present MJC No. 1347 of 2023 contempt petition stands dropped reserving liberty to the petitioner to file afresh petition or filing Interlocutory Petition to recall the order dated 16.02.2018 passed in MJC No. 339 of 2018 read with the later development passed in Civil Review No. 165 of 2011 decided on 05.12.2018.

5. The present contempt petition stands disposed of as not maintainable.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

Brajesh Kr./ Anand Kr.

AFR/NAFR	
CAV DATE	
Uploading Date	08.11.2023
Transmission Date	

