

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2488 of 2023

In
Civil Writ Jurisdiction Case No.5108 of 2020

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Pradeep Kumar Gupta, S/o- Late Surya Narayan Gupta, R/o- Flat No. 401,
Udaigiri Apartment, Buddha Marg, P.S.- Kotwali, District- Patna.

... .. Petitioner/s

Versus

1. Central Bank of India having its Head Office at Mahatma Gandhi Road, Mumbai through its Chairman- cum- Managing Director namely Matam Venkata Rao.
2. Zonal Manager, Central Bank of India, Zonal Office, Maurya Lok Complex, Patna namely Mrs Priyanka Choudhary.
3. Regional Manager, Central Bank of India, Regional Office, Maurya Lok Complex, Patna namely Jai Prasad.

... .. Opposite Party/s

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with
CIVIL REVIEW No. 295 of 2022
In
Civil Writ Jurisdiction Case No.5108 of 2020

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1. Central Bank of India having its Head Office at Mahatma Gandhi Road, Mumbai through its Chairman cum Managing Director.
2. Zonal Manager Central Bank of India, Zonal Office, Maurya Lok Complex, Patna.
3. Regional Manager Central Bank of India, Regional Office, Maurya Lok Complex, Patna.

... .. Petitioner/s

Versus

1. Pradeep Kumar Gupta Son of Late Surya Narayan Gupta, Resident of N 401, Udaigiri Apartment, Buddha Marg, Patna - 800001.
2. Vishnu Gupta, Son of Late Dilip Gupta, Resident of Gupta Mansion, Dak Bunglow Road, Patna - 800001.
3. Nitish Gupta, Son of Late Dilip Gupta, Resident of Gupta Mansion, Dak Bunglow Road, Patna - 800001.

... .. Opposite Party/s

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Appearance :

(In Miscellaneous Jurisdiction Case No. 2488 of 2023)

For the Petitioner/s : Mr. Siddhartha Prasad, Advocate

For the Opposite Party/s : Mr. Pratik Kumar, Advocate

(In CIVIL REVIEW No. 295 of 2022)

For the Petitioner/s : Mr. Pratik Kumar, Advocate



For the Opposite Party/s :

**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA**

**ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)**

Date : 25-01-2024

Civil Review No. 295 of 2022

Heard Civil Review No. 295 of 2022 to recall the order dated 17.10.2022 passed in CWJC No. 5108 of 2020. In the writ petition, petitioners have sought for the following relief/reliefs:

“(i) For issuance of appropriate writ (s)/ order(s)/ directions(s) upon the respondent Bank to pay appropriate mesne profit or compensation at market rate for use and occupation of the premise by the respondent Bank for period from 01.03.1986 till date of vacation i.e. on 04.04.2019.

(ii) For issuance of appropriate writ/ direction for appropriate compensation for destruction of building for lack of up-keep and non-maintenance of the premises during the occupation by respondent as also for payment of arrears of electric bill having fallen due on account of non-payment by them till date of vacation and for direction to the respondents for return of the original title deed of the premises to the petitioners.

(iii) For issuance of appropriate writ(s)/order(s)/ direction (s) upon respondents for which the petitioners may in the facts and circumstances of this case be entitled to.”



2. The Co-ordinate Bench proceeded to decide the aforementioned writ petition at the admission stage without calling for the counter affidavit. Having regard to the reliefs sought by the petitioners are in respect of certain disputed issues of payment of rent and compensation in the light of agreement entered into among the parties, on this issue, this Court has directed the respondents to submit representation and such representation was required to be considered by the concerned official respondent / review petitioner. For non-compliance of the order of this Court dated 17.10.2022, the respondent – *Pradeep Kumar Gupta* has filed MJC No. 2488 of 2023 (contempt of Court petition). The present civil review was filed earlier to filing of the MJC application.

3. Learned counsel for the review petitioners submitted that this Court has issued direction to a wrong person insofar as consideration of respondents' grievance with reference to representation. Instead of Zonal Manager it has been addressed to the Chairman-cum-Managing Director. Further, it is submitted that subject matter is relating to non-compliance of certain clause in the rental agreement. The respondents – *Pradeep Kumar Gupta* and others' contention is that review petitioners – Central Bank of India and others overstayed in the rental premises and they have



failed to pay rental charges or compensation etc. These are all matter which are disputed and it is required to be adjudicated before the civil court and writ petition is not maintainable.

4. *Per contra*, learned counsel for the respondents resisted the aforementioned contention and submitted that review petitioners' institution would fall under the definition of Article 12 of the Constitution of India, therefore, writ is maintainable. It is also submitted that merely mentioning to a wrong person while giving direction and it is a curable defect, therefore, there is no error committed by the Co-ordinate Bench.

5. Heard learned counsels for the respective parties.

6. Having regard to the reliefs sought by the respondents in the writ petition we have drawn inference that it is a disputed issue arising out of certain agreement among the respective parties. In such matter, the only remedy is in filing civil suit or respondents were permitted to file suit under Commercial Courts Act, 2015, on the other hand, writ is not maintainable. Apex Court in the case of ***Shalini Shyam Shetty and Another vs. Rajendra Shankar Patil*** reported in (2010) 8 SCC 329 read with ***Rajasthan State Industrial Development and Investment Corporation and Another vs. Diamond and Gem Development Corporation Ltd.*** reported in (2013) 5 SCC 470 held that if there are disputed issues,



in such circumstances, writ is not the remedy and remedy is before appropriate civil court jurisdiction.

7. Taking note of these facts and circumstances, review petitioners have made out a case so as to recall the order dated 17.10.2022 passed in CWJC No. 5108 of 2020. Accordingly, it is recalled and CWJC No. 5108 of 2020 stands restored on the file.

8. With the consent of respective parties, CWJC No. 5708 of 2020 was heard.

9. Having regard to the reliefs sought in the writ petition, it is disputed issues which cannot be adjudicated under Article 226 of the Constitution of India in the light of decision of the Hon'ble Supreme Court in the case of *Shalini Shyam Shetty (cited supra)* read with *Rajasthan State Industrial Development and Investment Corporation and Another (cited supra)*.

10. Accordingly, writ petition - CWJC No. 5108 of 2020 stands disposed of as not maintainable reserving liberty to the petitioners to invoke appropriate remedy before appropriate forum.

11. The time spent before this Court is required to be excluded for the purpose of condonation of delay, if any, under Section 14 of the Limitation Act, 1963. The jurisdictional Court is directed to take note of aforementioned provisions of law while



entertaining any litigation on behalf of petitioners. Hence, matter stands dispose of.

MJC No. 2488 of 2022

12. Registry has raised objection for non-impleadment of State of Bihar/Union of India as necessary and proper party. In the light of certain Rules. It is to be noted that in the original writ petition, State of Bihar/Union of India are not party. That apart, State of Bihar/Union of India has not committed any contempt of Court so as to implead to issue notice, therefore, office objection in respect of non-impleadment of State of Bihar/Union of India stands over-ruled.

13. In view of aforementioned order passed in C. Rev. No. 295 of 2022 and CWJC No. 5108 of 2020, MJC No. 2488 of 2023 stands disposed of as not maintainable.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.01.2024
Transmission Date	NA

