
(2011) 04 JH CK 0035

Jharkhand High Court

Case No: Writ Petition (C) No. 233 of 2009

Dinesh Prasad

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision: April 25, 2011

Citation: (2011) 3 JCR 32

Hon'ble Judges: Dhirubhai Naranbhai Patel, J

Bench: Single Bench

Judgement

@JUDGMENTTAG-ORDER

D.N. Patel, J.

The present writ petition has been preferred against the order, passed by the learned Sub Judge-IX, Ranchi dated 30th September, 2008 in Money Suit No. 1 of 2004 whereby, the learned trial Court has allowed the Respondents, who are original Defendants, to file written statement even though previously on two different occasions stage of filing of the written statement was closed down.

2. Having heard counsel for both the sides and looking to the facts and circumstances of the case, it appears that the present Petitioner is original Plaintiff, who has instituted Money Suit No. 1 of 2004. Thereafter, original Defendant Nos. 1, 2, 3, 5 and 7 did not file written statement and thereafter, the order was passed on 9th July, 2004 for proceeding ex-party whereas, Defendant Nos. 4 & 6 appeared on 27th August, 2004 and they also did not file written statement and therefore, another order was passed on 5th October, 2004 to proceed ex-party, in Money Suit.

3. It further appears that an application was given by original Defendant No. 7 for recalling of the order dated 9th July, 2004 and for Defendant No. 7, it was recalled and Defendant No. 7 filed his written statement.

4. It appears that the issues were framed on 2nd July, 2005.

5. Thereafter, it appears that the Plaintiff stalled examining his witnesses from 27th September, 2005 onwards.

6. It appears that the lethargic Respondents, who are the original Defendants, preferred an application on 5th May, 2007 for recalling of the order dated 9th July, 2004, which was adjourned on two, three occasions and thereafter, on 10th September, 2007, the original Defendants (except Defendant No. 7) did not press their application for recalling of the order dated 9th July, 2004, hence, their application was rejected.

7. Thus, it appears that the Respondents, who are the original Defendants, wanted not to file any written statement.

8. It further appears that the Respondents, who are original Defendants, preferred another application on 3rd September, 2008 for recalling the same order dated 9th July, 2004, which was allowed by the impugned order, dated 30th September, 2008 and therefore, the original Plaintiff has preferred this writ petition mainly on the ground that the Respondents are too much lethargic in filing their written statement and previously preferred application was not pressed and the learned trial Court has not even imposed cost for allowing the written statement to be taken on record.

9. Looking to the impugned order and the contentions of the State Government, it appears that the original Defendants are submitting that the present Petitioner has not completed the work assigned to him as contractor for any reason. There is a delay in filing of the written statement. Learned trial Court ought to have been kept in mind that Government has to take work from enthusiastic as well as lethargic officers. Some of the officers are honest and some are dishonest. Some are honest, but, lethargic and some are dishonest, but, enthusiastic. Government has to compromise with the officers and therefore, such type of delay happens in the governmental matters and therefore, whenever the written statement is allowed at a much belated stage reasonable cost ought to have been imposed, which is not imposed by the learned trial Court upon the Respondents, but, looking to the facts of the case, rightly the learned trial Court has allowed the written statement to be taken on record filed by the original Defendants.

10. As a cumulative effect of the aforesaid facts and reasons, I hereby, allow the cost to be paid by the original Defendants to the original Plaintiff at Rs. 2,500/- (Rupees two thousand and five hundred only), which will be deposited by the Respondents within a period of fifteen days from the date of receipt of a copy of an order of this Court and upon proper application the same shall be allowed to be withdrawn by the original Plaintiff.

11. I hereby, also direct the learned Sub Judge-IX, Ranchi to expedite the hearing of the Money Suit No. 1 of 2004 so that it can be disposed of on or before 31st August, 2011. I hereby, also direct the trial Court to submit a report before this Court in every first week of English calendar about the progress of the trial and Registry of

this Court is directed to enlist this matter under the heading "For Compliance of the Order" in the every second week of English calendar before this Court even though the mater is disposed of.

12. This writ petition is disposed of, in view of the aforesaid directions.