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Usha Mithal Vs. State of Jharkhand and Anr

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Court : Jharkhand

Decided On : Jan-06-2017

Appellant : Usha Mithal

Respondent : State of Jharkhand and Anr

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI Cont. Case (Civil) No. 910 of 2016 Usha Mithal, w/o Late Mahendra Prasad Mittal, at C/o Narendra Prasad Mittal, Gopi Lane, Power Ganj, P.O. + P.S. & District- Lohardaga Petitioner Versus 1. State of Jharkhand 2. Dr. Bhuvnesh Pratap Singh (I.A.S.), the Deputy Commissioner, Lohardaga, at P.O. + P.S. & District-Lohardaga ... ... Opposite Parties ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioner: M/s Ramit Satender For the Respondents: Mr. Dhananjay Kr. Dubey ----- th 03/Dated 6 January, 2017 1. Having heard counsel appearing for both sides it appears that the order dated 2nd August, 2016 passed by this court in W.P.(C) No.5248 of 2014, for non-compliance of which this contempt application was filed, has been complied with and the respondents have passed a reasoned order dated 30th December, 2016 which is at annexure A to the counter affidavit filed by Respondents.

2. It has been held by Hon'ble the Supreme Court in the case of Ram Kishan v. Tarun Bajaj & ors., as reported in (2014)16 SCC204 especially at paragraph no.12 thereof, as under:

12. Thus, in order to punish a contemnor, it has to be established that disobedience of the order is wilful'. The word wilful introduces a mental element and hence, requires looking into the mind of a person/contemnor by gauging his actions, which is an indication of one's state of mind. Wilful means knowingly intentional, conscious, calculated and deliberate with full knowledge of consequences flowing therefrom. It excludes casual, accidental, bona fide or unintentional acts or genuine inability. Wilful acts does not encompass involuntarily or negligent actions. The act has to be done with a bad purpose or without justifiable excuse or stubbornly, obstinately or perversely. Wilful act is to be distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently. It does not include any act done negligently or involuntarily. The deliberate conduct of a person means that he knows what he is doing and intends to do the same. Therefore, there has to be a calculated action with evil motive on his part. Even if there is a disobedience of an order, but such disobedience is the result of some compelling circumstances under which it was not possible for the contemnor to comply with the order, the contemnor cannot be punished. Committal or sequestration will not be ordered unless contempt involves a degree of default or misconduct. (Emphasis supplied) -2- 3. In view of the submissions made by both sides and looking to the Annexure A to the counter affidavit filed by the respondents and in the light of the aforesaid order of the Hon'ble Apex Court, it appears that there is no willfull disobedience of the order dated 2nd August, 2016 passed by this court in W.P.(C) No. 5248 of 2014.

4. Hence, this contempt application is, hereby, disposed of with liberty reserved with the applicant to challenge the reasoned order passed by the respondents before an appropriate forum in accordance with law. (D.N.Patel, J.) s.m. IN THE HIGH COURT OF JHARKHAND AT RANCHI Cont. Case (Civil) No. 644 of 2015 Arun Kumar & others Petitioners Versus The State of Jharkhand & Ors. ... ... Opp. Parties ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioners: M/s Avishek Prasad For the Respondents: Mr. Ram Nivas Roy ----- th 05/Dated 6 January, 2017 1. Counsel appearing for the respondents submitted that payment has been made to 13 out of 19 applicants. Rest of the applicants, viz. Respondent No.s 2, 15, 16, 17, 18 and 19 have not approached the authority.

2. We, therefore, direct the aforesaid applicants, viz. Applicant No.s 2 and 15 to 19 to approach the respondents at the earliest so that their claims can be settled and legally payable amount can be paid.

3. This matter is adjourned to be listed on 10th February, 2017. (D.N.Patel, J.) s.m. IN THE HIGH COURT OF JHARKHAND AT RANCHI Arbitration Application No. 10 of 2016 Upendra Prasad and Brothers Applicant Versus Secretary, Government of Jharkhand, Water Ways Department & Ors. ... ... Respondents ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioner: M/s Amit Kumar Das For the Respondents: ----- th 06/Dated 6 January, 2017 1. Fresh Notice upon Respondents through ordinary process, for which requisites etc. to be filed within a period of one week.

2. Notice is made returnable on 10th February, 2017. (D.N.Patel, J.) s.m. IN THE HIGH COURT OF JHARKHAND AT RANCHI Cont. Case (Civil) No. 781 of 2016 Dr. Arun Kumar Petitioner Versus State of Jharkhand & Ors. ... ... Contemnor/Opp.Parties ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioner: Mr. Sunil Singh For the Respondents: Mr. D.K. Dubey Mr. Sanjay Piprawall, Advocate ----- th 03/Dated 6 January, 2017 1. Counsel for the applicant submitted that despite the order dated 6th September, 2016 passed by this court in W.P.(S) No. 4702 of 2013, neither this applicant (original petitioner) has been reinstated nor any appeal is being preferred by the respondents.

2. Counsel appearing for the respondent is seeking time to file Letters Patent Appeal.

3. Time, as prayed for, is granted.

4. This matter is adjourned to be listed on 13th January, 2017. (D.N.Patel, J.) s.m. IN THE HIGH COURT OF JHARKHAND AT RANCHI C.M.P. No. 265 of 2010 The Fertilizer Corporation of India Limited Petitioner Versus Union of India & Ors. ..... Respondents/Opposite Parties ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioner: M/s Jyoti Prasad Sinha, Advocate For the Respondents: J.C. to A.S.G.I. ----- th 05/Dated 6 January, 2017 1. Notice upon respondents.

2. Counsel appearing for Respondent No.s 1 and 2 waives Notice on their behalf.

3. Notice upon Respondent No.3 to be served through ordinary process, for which requisites etc. to be filed within one week.

4. Notice is made returnable on 10th February, 2017. (D.N.Patel, J.) s.m. IN THE HIGH COURT OF JHARKHAND AT RANCHI C.M.P. No. 265 of 2016 with I.A. No. 7833 of 2016 Nitesh Kumar Petitioner Versus M/s Excel Venture Construction Pvt. Ltd. ... ... Opp. Party ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioner: Mr. Rajesh Kumar For the Respondents: ----- th 03/Dated 6 January, 2017 1. Notice upon respondent to be served through ordinary process, for which requisites etc. to be filed within one week.

2. Notice is made returnable on 10th February, 2017. (D.N.Patel, J.) s.m. IN THE HIGH COURT OF JHARKHAND AT RANCHI Arb. Appeal No. 4 of 2016 with I.A. No. 6093 of 2016 Rajesh Anand Jha Petitioner Versus Mahindra & Mahindra Financial Services Ltd. & Ors. ... ... Respondents ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioner: M/s Anil Kr. Jha For the Respondents: ----- th 06/Dated 6 January, 2017 1. Notice upon Respondent No.s 1,2 and 3 to be served through ordinary process, for which requisites etc. to be filed within one week.

2. Notice is made returnable on 10th February, 2017. (D.N.Patel, J.) s.m. IN THE HIGH COURT OF JHARKHAND AT RANCHI Arbitration Appeal No. 2 of 2016 Shabaz Khan & Anr. Appellants Versus M/s Shriram Transport Finance Company Ltd. ... ... Respondent ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioner: Mr. Pradeep Kr. Prasad, Advocate For the Respondents: ----- th 07/Dated 6 January, 2017 1. Fresh Notice upon respondent to be served through Head of the Ramgarh Police Station, Dist. Ramgarh, Jharkhand. Registry of this Court will send the Notice to the aforesaid officer who will in turn serve it upon the respondent and after taking the necessary signature return the papers to this court.

2. Notice is made returnable on 10th February, 2017. (D.N.Patel, J.) s.m. IN THE HIGH COURT OF JHARKHAND AT RANCHI Arbitration Application No. 18 of

2016 Camry Developers Applicant Versus Smt. Shefali Roy ... ... Respondent ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioner: M/s Atanu Banerjee For the Respondents: ----- 04/Dated 6th January, 2017 1. Defects shall be removed within course of the day.

2. Notice upon respondents to be served through ordinary process, for which requisites etc. shall be filed within one week.

3. Notice is made returnable on 10th February, 2017. (D.N.Patel, J.) s.m. IN THE HIGH COURT OF JHARKHAND AT RANCHI Cont. Case(Civil) No. 800 of 2015 Munni Devi Petitioner Versus Central Coalfields Limited & Ors. ... ... Respondents ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioner: M/s Manish Kumar, Advocate For the Respondents: Mr. D.K. Chakraverty, Advocate ----- 08/Dated 6th January, 2017 1. Counsel appearing for the applicant submitted that the order dated 13th July, 2015 passed by this court in W.P.(S) No. 7438 of 2013, for which this contempt application was filed, has not been complied with.

2. Counsel appearing for the respondents is seeking time as Letters Patent Appeal has been preferred with a delay condonation application.

3. Time, as prayed for, is granted.

4. This matter is adjourned to be listed on 10th February, 2017. (D.N.Patel, J.) s.m. IN THE HIGH COURT OF JHARKHAND AT RANCHI B.A. No. 7436 of 2016 Santosh Sao Petitioner Versus State of Jharkhand ... ... Respondent ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioner: Mr. Anurag Kashyap For the Respondents: None ----- 05/Dated 6th January, 2017 1. Counsel appearing for the applicant has argued out the case at length, which is an application under Section 439 of the Code of Criminal Procedure for enlargement on bail.

2. Nobody appears on behalf of the State.

3. I, therefore, direct the Secretary, Department of Home, Government of Jharkhand to argue out the case on behalf of the State of Jharkhand on the next date of hearing.

4. Registry of the court is directed to send a copy of this order to the Chief Secretary and the Secretary, Department of Home, Government of Jharkhand.

5. The Chief Secretary may pay the A.P.P.s case-wise so that they may remain present before this court.

6. This matter is adjourned only because the A.P.P. is absent.

7. This matter is adjourned to be listed on 27th January, 2017. (D.N.Patel, J.) s.m. IN THE HIGH COURT OF JHARKHAND AT RANCHI C.M.P. No. 117 of 2015 Mithila Kshetriya Gramin Bank, Head Office, Leheriasarai, through Mukul Shrivastava, son of Late Surendra Prasad Shrivastava, Senior Manager (PRS/Controlling Office), U.B.G. Bank Regional Office, VIP Road, P.O. & P.S.-Leheriasarai, District-Darbhanga (Bihar) previously through Chairman Shaukat Ali Khan, son of Md. Khalil Khan, resident of Mohalla-Rahim Khan, P.O. & P.S.-Leheriasarai, District-Darbhanga (Bihar) and presently through Sri Kuldip Prasad Yadav, son of Sri Mathura Prasad Yadav, posted as the law officer, Uttar Bihar Gramin Bank, H.O.-Muzzafarpur, P.O. & P.S.-Muzzafarpur, District Muzzaffarpur (Bihar) Petitioner Versus 1. Union of India through the Secretary, Department of Labour, Government of India, Shastri Bhawan, P.O. & P.S.-Sansad Marg, District New Delhi 2. The Presiding Officer, Central Government Industrial Tribunal No.2, Dhanbad, P.S.-Koyla Nagar, P.O.-Dhanbad, District- Dhanbad 3. Ramu Mochi, son of Nathuni Mochi, resident of Village-Bedhant, P.O. & P.S.-Manigachi, District-Darbhanga, Bihar ... ... Opp. Parties ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioner: Mr. Dr. Gyanendra Kumar For the Respondents: J.C. to A.S.G.I. ----- th 08/Dated 6 January, 2017 1. This Civil Misc. Petition has been preferred for restoration of another Civil Misc. Petition, viz. C.M.P. No. 127 of 2012, which was dismissed for default vide order dated 31st October, 2014 due to non-appearance of the Advocate for the applicant. C.M.P. 127 of 2012 was preferred for restoration of C.W.J.C. No. 5485 of 1999(P) which was dismissed for default on 19th February, 2009. Thus, no care was taken to remain present with .....5485 of 1999(P) and hence it was dismissed for default vide order dated .....Thereafter, C.M.P. 127 was preferred for restoration of C.W.J.C. 5485 in C.M.P. No. 127 of 2012 also . When the matter was called out nobody was

present and hence this C.M.P. was also dismissed vide order dated.....and hence present C.M.P. is preferred no reason have been given as to why nobody .....October, 2014 I.e. in C.M.P. No. 127....., hence there is no cogent and convincing .....to recall the order and hence this C.M.P. is, hereby, dismissed and there is no substance in ..... I.A. There are no reasonable reasons and reasons assigned are not reasonable reasons for condonation of delay. I, therefore, do not condone the delay in I.A. (D.N.Patel, J.) s.m. IN THE HIGH COURT OF JHARKHAND AT RANCHI ..... Petitioner Versus ... ... Respondent ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioner: For the Respondents: ----- /Dated 6th January, 2017 (D.N.Patel, J.) s.m. IN THE HIGH COURT OF JHARKHAND AT RANCHI ..... Petitioner Versus ... ... Respondent ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioner: For the Respondents: ----- /Dated 6th January, 2017 (D.N.Patel, J.) s.m. IN THE HIGH COURT OF JHARKHAND AT RANCHI ..... Petitioner Versus ... ... Respondent ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioner: For the Respondents: ----- /Dated 6th January, 2017 (D.N.Patel, J.) s.m. IN THE HIGH COURT OF JHARKHAND AT RANCHI ..... Petitioner Versus ... ... Respondent ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioner: For the Respondents: ----- /Dated 6th January, 2017 (D.N.Patel, J.) s.m. IN THE HIGH COURT OF JHARKHAND AT RANCHI ..... Petitioner Versus ... ... Respondent ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioner: For the Respondents: ----- /Dated 6th January, 2017 (D.N.Patel, J.) s.m. IN THE HIGH COURT OF JHARKHAND AT RANCHI ..... Petitioner Versus ... ... Respondent ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioner: For the Respondents: ----- /Dated 6th January, 2017 (D.N.Patel, J.) s.m. IN THE HIGH COURT OF JHARKHAND AT RANCHI ..... Petitioner Versus ... ... Respondent ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioner: For the Respondents: ----- /Dated 6th January, 2017 (D.N.Patel, J.) s.m. IN THE HIGH COURT OF JHARKHAND AT RANCHI ..... Petitioner Versus ... ... Respondent ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioner: For the Respondents: ----- /Dated 6th January, 2017 (D.N.Patel, J.) s.m. IN THE HIGH COURT OF JHARKHAND AT RANCHI ..... Petitioner Versus ... ... Respondent ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioner: For

the Respondents: ----- /Dated 6th January, 2017 (D.N.Patel, J.) s.m. IN THE HIGH COURT OF JHARKHAND AT RANCHI ..... Petitioner Versus ... ... Respondent ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioner: For the Respondents: ----- /Dated 6th January, 2017 (D.N.Patel, J.) s.m. IN THE HIGH COURT OF JHARKHAND AT RANCHI ..... Petitioner Versus ... ... Respondent ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioner: For the Respondents: ----- /Dated 6th January, 2017 (D.N.Patel, J.) s.m. IN THE HIGH COURT OF JHARKHAND AT RANCHI ..... Petitioner Versus ... ... Respondent ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioner: For the Respondents: ----- /Dated 6th January, 2017 (D.N.Patel, J.) s.m. IN THE HIGH COURT OF JHARKHAND AT RANCHI ..... Petitioner Versus ... ... Respondent ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioner: For the Respondents: ----- /Dated 6th January, 2017 (D.N.Patel, J.) s.m. IN THE HIGH COURT OF JHARKHAND AT RANCHI ..... Petitioner Versus ... ... Respondent ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioner: For the Respondents: ----- /Dated 6th January, 2017 (D.N.Patel, J.) s.m. IN THE HIGH COURT OF JHARKHAND AT RANCHI ..... Petitioner Versus ... ... Respondent ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioner: For the Respondents: ----- /Dated 6th January, 2017 (D.N.Patel, J.) s.m. IN THE HIGH COURT OF JHARKHAND AT RANCHI ..... Petitioner Versus ... ... Respondent ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioner: For the Respondents: ----- /Dated 6th January, 2017 (D.N.Patel, J.) s.m. IN THE HIGH COURT OF JHARKHAND AT RANCHI ..... Petitioner Versus ... ... Respondent ------ CORAM: HON'BLE MR. JUSTICE D.N. PATEL ----- For the Petitioner: For the Respondents: ----- /Dated 6th January, 2017 (D.N.Patel, J.) s.m. . Having heard counsel appearing for both sides it appears that the order dated ..... passed by this court in ....., for non-compliance of which this contempt application was filed, has been complied with and the respondents have passed a reasoned order which is at annexure .... to the counter affidavit filed by Respondents.

2. It has been held by Hon'ble the Supreme Court in the case of Ram Kishan v. Tarun Bajaj & ors., as reported in (2014)16 SCC204 especially at paragraph no.12 thereof, as under:

12. Thus, in order to punish a contemnor, it has to be established that disobedience of the order is wilful'. The word wilful introduces a mental element

and hence, requires looking into the mind of a person/contemnor by gauging his actions, which is an indication of one's state of mind. Wilful means knowingly intentional, conscious, calculated and deliberate with full knowledge of consequences flowing therefrom. It excludes casual, accidental, bona fide or unintentional acts or genuine inability. Wilful acts does not encompass involuntarily or negligent actions. The act has to be done with a bad purpose or without justifiable excuse or stubbornly, obstinately or perversely. Wilful act is to be distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently. It does not include any act done negligently or involuntarily. The deliberate conduct of a person means that he knows what he is doing and intends to do the same. Therefore, there has to be a calculated action with evil motive on his part. Even if there is a disobedience of an order, but such disobedience is the result of some compelling circumstances under which it was not possible for the contemnor to comply with the order, the contemnor cannot be punished. Committal or sequestration will not be ordered unless contempt involves a degree of default or misconduct. (Emphasis supplied) -2- 3. In view of the submissions made by both sides and looking to the Annexure ..... to the counter filed by the respondents and in the light of the aforesaid order of the Hon'ble Apex Court, it appears that there is no willfull disobedience of the order dated ..... passed by this court in .....

4. Hence, this contempt application is, hereby, disposed of with liberty reserved with the applicant to challenge the reasoned order passed by the respondents before an appropriate forum in accordance with law.

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