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H.Jena vs.UOI

ORDER SL.NO.1  
O.A.No.253/12  
Date-06.1.2015

CORAM  
HON'BLE SHRI A.K.PATNAIK, MEMBER(J)  
HON'BLE SHRI R.C.MISRA, MEMBER(A)

None appeared for the applicant when called. Shri B.K.Mohapatra, learned ACGSC is present.

2. On 28.3.2012, this O.A. was admitted and notices were directed to be issued to Respondents to file their counter within four weeks and accordingly, the matter was fixed to 16.4.2012. On 16.4.2012, when the matter was taken up, none appeared for the applicant. However, on the specific prayer made by Shri Mohapatra, two weeks' time was granted to file objection to status quo order granted on 28.3.2012 and the matter was directed to be listed on 1.5.2012. On 1.5.2012, due to some resolution passed by the CAT Bar Association, none appeared for either of the parties and accordingly, the matter was adjourned to 9.5.2012. On 9.5.2012, on the prayer made by Shri Mohapatra, further 15 days' time was granted to file objection to status quo order issued by this Tribunal on 28.3.2012. Accordingly, the matter was listed



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on 28.6.2012, when on the prayer made by Shri Mohapatra 15 days' time was granted to file objection to status quo order and accordingly, the matter was fixed to 13.07.2012. On 13.07.2012, on the prayer made by Shri Mohapatra, another seven days' time was allowed to file objection to the status quo order. However, on 23.7.2012 and 25.7.2012, none appeared for the applicant, though Shri Mohapatra was present. On 26.7.2012, Shri Mohapatra filed his objection to status quo order and pointed out that one Anil Kumar Jena has joined the post on 31.03.2012. Shri M.K.Chand, learned counsel for the applicant on the other hand, submitted that he would implead the said Anil Kumar Jena as Party-Respondent to the O.A. within a week. Thereafter, on 7.8.2012, when the matter came up, none appeared for the applicant. However, M.A.No.684/12 filed by the applicant for impleading Sri Anil Kumar Jena as Respondent No.4 to the O.A. was allowed and the applicant was directed to make necessary amendment in the cause title and to arrange to serve copy of the O.A. to the newly added Respondent No.4 within a week. Thereafter, the matter came up on 23.8.2012 when none appeared for the applicant. On 10.10.2012, when the matter came up, Shri R.R.Mishra, learned counsel for the applicant submitted that he would amend the cause title on the very same day in the presence of Shri Mohapatra and on the prayer made by Shri Mohapatra, four weeks' time was allowed to file counter. It was further



ordered to list the matter for hearing after completion of pleadings in its turn. Thereafter, on 25.7.2014 and 14.8.2014 when the matter was taken up none appeared for the applicant. However, vide order dated 14.8.2014, this Tribunal observed that though vide order dated 7.8.2012, M.A.No.684/12 for amendment in the cause of the O.A. was allowed, yet, for the last two years no steps have been taken by the applicant to amend the cause title. In the circumstances, as a last chance, this matter was directed to be listed on 20.8.2014 under the heading ORDERS and it was made clear that if on that date learned counsel for the applicant did not appear and no steps were taken for amendment of the O.A. appropriate orders would be passed. On 20.8.2014, on the specific undertaking given by Shri R.R.Mishra, learned counsel for the applicant, as a last chance one week's time was granted to carry out the amendment with copy of consolidated O.A. being served on Shri Mohapatra. Thereafter, the matter was listed on 24.9.2014, when due to some resolution passed by the CAT Bar Association, neither of the counsels did appear and therefore, the matter was adjourned to 13.10.2014. On 13.10.2014, on the prayer made by Shri R.R.Mishra, learned counsel for the applicant, he was allowed to correct the O.A.No.252/12 written in the cause title and write it 253/12 and after making necessary correction to serve a copy thereof on Shri Mohapatra. Thereafter, the matter came up on 18.11.2014, when Shri



Mohapatra pointed out that the learned counsel for the applicant has not served copy of the amended O.A. on him. The Tribunal observed that "it is also revealed from the order sheets that on several occasions, the learned counsel for the applicant was given a chance to make amendment in the cause title but he has failed to do so. As a last chance, the matter is posted to 1.12.2014 under the heading ORDERS". On 1.12.2014, one appeared for the applicant even after 2<sup>nd</sup> passed over. Shri Mohapatra vehemently opposed further grant of time by stating that despite several chances having been granted applicant is neither appearing nor serving amended copy on him. However, the Tribunal while granting one more opportunity as last chance for the purpose and adjourned the matter to 22.12.2014 and it was observed that if the applicant failed to do so, the matter would be decided as per the AT Act and Rules. Accordingly, a copy of the order was directed to be sent by Speed Post to the applicant in the address given in the O.A. On 22.12.2014, none appeared for the applicant and accordingly, the matter was directed to be listed to-day, i.e., 6.1.2015. To-day also none appeared for the applicant. We also find that no amendment has been carried out. Shri Mohapatra strenuously argued that the applicant/applicant's counsel is lingering the matter and therefore, he is not in a position to file any counter albeit he has filed counter to unamended O.A.



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3. Having regard to the above facts and circumstances, we are of the view that applicant is no longer interested to pursue this matter. In view of this, the O.A. is dismissed for non-prosecution.

Inform the parties.

MEMBER(A)

*R. S. S.*

*W. S. S.*  
MEMBER(J)

order dt. 06.09.15

Copy of final order may be given to counsels for both sides & may sent to all parties by regd. post/A.D. to lib.

*P. S. S.*  
*19.1.15*  
*So (J)*

*Prasanna*  
*19.1.15*