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IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No. 535 of 2013
Arising out of
Civil Writ Jurisdiction Case No. 11785 of 2005

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1. The Bihar State Electricity Board through its Secretary, Bailey Road, Patna.
2. Financial Controller (Revenue), Bihar State Electricity Board, Patna (Revenue Section), Bailey Road, Patna.
3. General Manager-cum-Chief Engineer Bihar State Electricity Board, Mithila Region, Darbhanga.
4. Electrical Superintending Engineer, Electric Supply Circle, Samastipur.
5. Electrical Executive Engineer, Electric Supply Division, Samastipur.

.... Respondent/s / Appellant/s

Versus

1. Dr. B.N. Prasad, Son of Late Baldeo Narayan, Resident of Mohalla- Kashipur, P.O.& P.S. and District- Samastipur.

…….. (Petitioner) / Respondent 1st Set.

2. The State of Bihar

.... Respondent /Respondent 2nd Set.

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Appearance :
For the Appellant/s : Mr. Vinay Kriti Singh, Advocate &
Mr. Sanjay Kumar Giri, Advocates.

For the Respondent/s : Mr. Mukul Sinha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA
and
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE V.N. SINHA)
Date: 20-03-2015

This appeal was earlier dismissed as withdrawn under order dated 27.09.2013 whereafter Civil Review No. 102 of 2014 was filed for recall of the said order and having considered the submissions the said review petition was allowed under order dated 06.02.2015.

2. Today we have heard the appeal in the light of the aforesaid order dated 06.02.2015. Bihar State Electricity Board (hereinafter referred to as the 'Board') is the appellant and

has challenged the order dated 04.07.2012 passed by the learned single Judge of this Court in C.W.J.C. No. 11785 of 2005 whereunder the electricity bill raised against the sole-respondent has been quashed holding that the Board is not entitled to charge Non-Domestic tariff from the respondent for consumption of electricity in the portion of residential house used by him as his consultation chamber. It is the admitted position that in the same building the respondent has his residence and two rooms of the building is used by him as consultation chamber for diagnosis purpose. Learned Single Judge, having considered the tariff held that doctor's consultation chamber in the instant case that is the two rooms of the residential house is not within the ambit of clinic or a nursing home and having held so ruled that the Board was not entitled to charge tariff treating the connection as non-domestic.

3. In this connection in the impugned judgment itself learned Single Judge has relied on the Judgment of the Hon'ble Supreme Court in the case of **Dr. Devendra M. Surti Vs. The State of Gujarat, AIR 1969 SC 63.** The present case is also covered by the same reasoning which has been rendered by the Hon'ble Supreme Court in the aforesaid judgment. Respondent in his residential house is using two rooms as his consultation chamber for imparting services to the patients in the light of his skill duly acquired.

4. In this connection we may also place reliance

of the judgment of the Hon'ble Supreme Court in the case of **New Delhi Municipal Council Vs. Sohan Lal Sachdev (2000) 2 SCC 494.**

5. For the reasons aforesaid, we find no merit in the appeal, which is dismissed in limine with cost of Rs. 1,000/-. The amount of cost has to be deposited in the office of the Patna High Court Legal Services Committee within one month.

6. In fairness to the learned counsel for the appellant, before parting with this order, we must notice the order of the Hon'ble Supreme Court passed in the case of **M. P. Electricity Board & Ors. Vs. Shiv Narayan & Anr. (2005) 7 SCC 283** whereunder two judges Bench of the Hon'ble Supreme Court having taken note of the judgment of the Hon'ble Supreme Court in the case of **Dr. Devendra M. Surti** (supra) observed that it does not agree with the observation made by the Hon'ble Supreme Court in paragraph 12 of the judgment rendered by the Hon'ble Supreme Court in the case of **New Delhi Municipal Council Vs. Sohan Lal Sachdev** (supra) and referred the matter to a larger bench.

(V.N. Sinha, J.)

(Ahsanuddin Amanullah, J.)

Anand Kr.

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