

GAHC010117012023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : I.A.(Civil)/1511/2023

OIL AND NATURAL GAS CORPORATION LTD.
HAVING ITS REGISTERED OFFICE AT NEW DELHI AND ITS REGIONAL
OFFICE AT NAZIRA, SIVASAGAR, ASSAM. REP. BY ITS ASSET MANAGER,
ONGC, ASSAM ASSET, NAZIRA SIVASAGAR, ASSAM.

VERSUS

BARNALI DIHINGIA AND ANR.
W/O LT. HARI DIHINGIA @ HARI CHANDRA DIHINGIA,
R/O MAKHUWABARI, KHAMUN GAON, P.O.- KHAMUN, DIST.- SIVASAGAR,
ASSAM, PIN- 785697.

2:RENU RAJKOWARI
W/O- LATE LILESWAR RAKONWAR
R/O KONWAR GAON
P.O. LAKWA
SIVASAGAR
ASSAM
PIN- 785685

Advocate for the Petitioner : MR. B K DAS

Advocate for the Respondent : MR A DASGUPTA

Linked Case : **I.A.(Civil)/1592/2023**

OIL AND NATURAL GAS CORPORATIO LTD.
HAVING ITS REGISTERED OFFICE AT NEW DELHI AND ITS REGIONAL
OFFICE AT NAZIRA
SIVASAGAR
ASSAM
REPRESENTED BY ITS ASSET MANAGER

ONGC ASSAM ASSET
NAZIRA
SIVASAGAR
ASSAM.

VERSUS

SADANANDA BARUAH
S/O LATE INDRA KANTA BARUAH
RESIDENT OF BETBARI
LUTHURIGAON
PO BETBARI
ALI MOOR
DIST SIVASAGAR
ASSAM PIN- 785639.

For the applicant/review

petitioner : Mr. B.K. Das, Advocate

For the respondents : Mr. A. Dasgupta, Senior Advocate
assisted by Ms. B. Das,
Mr. J.K. Sharma, Advocates

– B E F O R E –

HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

31-05-2024

(Vijay Bishnoi, C.J.)

The matters come up for consideration of I.A.(Civil) No.1511/2023 and I.A.(Civil) No.1592/2023 filed under Section 5 of the Limitation Act, 1963 with the prayer for condonation of delay of 1 day in filing the connected review petitions seeking review of the order dated 19.04.2023 passed by the Division Bench of this Court whereby WA 99/2023 and WA 109/2023 were disposed of as withdrawn.

Learned senior counsel appearing for the respondents has no objection if the delay is condoned.

In such circumstances, the delay of 1 day in filing the connected review petition is condoned.

Accordingly, these interlocutory applications are allowed.

However, with the consent of the parties, the connected review petitions, which are yet to be registered, are heard on merit.

This Court vide order dated 19.04.2023 disposed of both the abovementioned writ appeals while taking into consideration the submissions made by learned senior counsel appearing for the appellants/review petitioners. While allowing withdrawal of the writ appeals, the Division Bench also extended the time to extend the monetary benefits to the respondents (writ petitioners) in terms of the award dated 18.12.2000 up to 30.05.2023. The order dated 19.04.2023 is reproduced hereunder:

“19.04.2023

Heard Mr. G.N. Sahewalla, learned Senior Counsel assisted by Mr. B.K. Das, learned counsel for the appellants.

After arguing the matter for some time, Mr. Sahewalla submitted that giving indulgence to the Corporation till 30.05.2023 for effecting compliance of the directions given by the learned Single Bench by the impugned order dated 09.02.2023, he may be allowed to withdraw the instant appeals.

The submission so made is justified. Thus, the time granted by the learned Single Bench to the Corporation for extending monetary benefits to the writ petitioners in terms of the award dated 18.12.2000 is extended till 30.05.2023.

With the above modification, both the intra-court writ appeals are disposed of as withdrawn.”

Mr. B.K. Das, learned counsel appearing for the review petitioners submits that as a matter of fact, the appellants/review petitioners did not instruct the

senior counsel appearing on their behalf to withdraw the writ appeals.

It is to be noticed that the said contention of the counsel appearing for the review petitioners is not supported by any statement made on behalf of the learned senior counsel appearing for the appellants/review petitioners that he had no instruction to withdraw the writ appeals.

Be that as it may, we have also taken into consideration the argument of the learned counsel appearing for the review petitioners that the writ petition filed by the writ petitioners (respondents herein) was not maintainable on the ground that by way of filing that writ petition, the writ petitioners sought determination of the amount to be paid to them pursuant to the award dated 18.12.2000 passed by the Industrial Tribunal and for that the writ petitioners were required to approach the Industrial Tribunal under Section 33 (C)(2) of the Industrial Dispute Act, 1947. It is contended that the Division Bench of this Court without taking into consideration this aspect of the matter disposed of the writ appeals as withdrawn simply on the basis of the statement made by the learned senior counsel for the appellants/review petitioners.

It is to be noticed that the learned Single Judge in the impugned order dated 09.02.2023, which was under challenge before the Division Bench in WA 99/2023 and WA 109/2023, has taken into consideration the said argument made on behalf of the review petitioners and concluded that the review petitioners never raised such question as regards the entitlement of the writ petitioners in the earlier stage of litigation which was ultimately adjudicated by the Hon'ble Supreme Court. It was also observed that considering the language employed in the impugned award, it must be understood that the review petitioners were also aware about their liability under the award and, therefore,

the technical plea raised by the respondent ONGC/ review petitioners could not be entertained at that point of time.

Having noted the above facts and circumstances of the case, we are of the view that the review petitioners have failed to make out a case for reviewing the order dated 19.04.2023 passed by the Division Bench in WA 99/2023 and WA 109/2023. Hence, there is no force in the present review petitions and accordingly, the review petitions, which are yet to be registered, are dismissed.

JUDGE

CHIEF JUSTICE

Comparing Assistant