

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.156 of 2015

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The Patna Regional Development Authority And Others

.... Appellant/s

Versus

M/s Walia Builders Through Its Proprietor of Sri Mohan Ahluwalia

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Y.V.Giri, Sr. Adv.

Mr. Sanjay Prakash Verma, Adv.

For the Respondent/s : Mr. Basant Kumar Choudhary, Sr. Adv.

Mr. Arun Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL ORDER

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29-06-2015

Heard counsel for the appellant and the respondents.

Counsel for the respondent has opposed the maintainability of the appeal submitting that in terms of Section 37 of the Arbitration and Conciliation Act 1996, the present appeal is not maintainable. In terms of Section 37 of the Arbitration and Conciliation Act, 1996, the appeal is maintainable in respect to items mentioned therein and the order passed by the executing court does not fall under the umbrella of Section 37 of the Arbitration and Conciliation Act 1996.

Counsel for the appellant fairly accepted that this appeal is not maintainable, rather a writ petition under Article 227 of the Constitution will lie. He further submitted that the present appeal may be allowed to be converted into a writ petition but he submits that he will maintain balance of Rs.2,45,00,000/- (two crores, forty five lacs) in the accounts mentioned in the order dated 21st May 2015.

Counsel for the respondents has opposed the prayer of the appellant and submitted that he should withdraw this appeal and file a separate writ petition under Article 227 of the Constitution of India.

In view of the submission made at the bar, writ petition under Article 227 of the Constitution of India will lie before this Court and same matter will be adjudicated under the supervisory jurisdiction of this Court.

In such view of the matter, for the ends of justice, appellant is allowed to convert this appeal into a writ petition under Article 227 of the Constitution of India in course of day, subject to the condition that the Municipal Corporation will always maintain a balance of Rs.2,45,00,000/- (two crores, forty-five lacs) till disposal of the writ petition subject to modification, if any.

Office is also directed to expedite the stamp reporting without unnecessary delay.

(Shivaji Pandey, J)

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