

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.212 of 2014

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1. The Employees State Insurance Corporation, Regional Officer, 'Panchdeep Bhawan', Jawahar Lal Nehru Marg, Patna- 800001, Bihar through its Regional Director.
 2. The Deputy Director (Insurance), Regional Office, Bihar, Employees State Insurance Corporation, Panchdeep Bhawan, Jawahar Lal Nehru Marg, Patna- 800001
 3. The Deputy Director (Revenue Recovery Officer), Regional Office, Bihar Employees State Insurance Corporation, Panchdeep Bhawan, Jawahar Lal Nehru Marg, Patna- 800001.

.... Appellant/s

Versus

1. Anupama Hospital Pvt. Ltd., Khajanchi Road, Patna- 800004 through its Director, Dr. Alok Abhijit, Son of Dr. Narendra Prasad
2. Dr. Alok Abhijit, Son of Dr. Narendra Prasad, Anupama Hospital Pvt. Ltd., Khajanchi Road, Patna- 800004.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sudhir Kumar Bijpuria

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 27-10-2015

Heard learned counsel for the appellants.

In the present case, appellants have challenged the order dated 10th February 2014 whereby the whereunder the Insurance Court has passed the order that the injunction petition will be heard after disposal of the waiver application, no coercive step will be taken by the opposite parties.

The grievance that has been raised by the appellants that the E.I. Court passed the order without taking into note of the amendment inserted by way of Section 75(2-B) which provides that



unless the principal employer deposits 50% amount, the E.I. Court will not examine the other matters and in the present case, the court below without considering the waiver application or without giving direction for depositing the 50% amount, should not have granted the relief in such nature. Section 75(2-B) of E.S.I. Act. has been brought in the year 1989 which provides, no matter relates to dispute between principal employer and the Corporation in respect of payment of any contribution or any dues shall be raised unless 50% amount dues is deposited. This Section is mandatory in nature, as looking to nature of legislation as the provision starts with the negative statutory provisions, in such situation whether the court in an abnormal situation, can pass an order in such nature. This provision does not deal with the injunction and consider the question of granting or refusing the injunction, but stipulate negative statutory provision. This Court is of the view that in an emergent situation, any court cannot be deprived of its power to exercise its inherent power to pass such order, but it is also a duty cast upon the E.I. court if such type of order is passed, he must decide the issue with regard to the waiver at the earliest without unnecessary delay.

In such view of the matter, this Court is not inclined to interfere with the order that has been passed by the court below, but the direction is given to the court below to dispose the waiver

application within two weeks and injunction petition three weeks thereafter from the date of receipt/production of a copy of this order.

With the aforesaid direction, this appeal is disposed of.

(Shivaji Pandey, J)

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