

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.1301 of 2012**

**IN**

**Civil Writ Jurisdiction Case No. 5352 of 2009**

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M/S M.K. Agencies, a partnership firm having its office at Hotel Apsara Building, Kadamkuan, Patna through its Proprietor Sri Manoj Kumar S/O Late K.P. Gupta R/O Hotel Apsara Building, at and P.S.- Kadamkuan, District- Patna-800 003.

.....Appellant

Versus

1. The East Central Railway having its headquarter at Hajipur District- Vaishali through its General Manager.
2. The Chief Controller of Stores, East Central Railway, Hajipur, District- Vaishali.
3. The Deputy Chief Materials Manager (Depot), East Central Railway, Samastipur.
4. The Chief Material Manager (Sales), East Central Railway, Hajipur, District- Vaishali.

.....Respondents

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**Appearance :**

For the Appellant : Mr. Ravi Kumar, Advocate  
Ms. Priya Choubey, Advocate  
Mr. Alok, Advocate  
Mr. Rajiv Ranjan Singh, Advocate

For the Respondents : Mr. Shabbir Ahmad, Advocate

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**CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH**  
**and**  
**HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA**

ORAL JUDGMENT

**(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)**

**Date: 24-03-2015**

Heard learned counsel for the appellant and learned counsel for the Railways.

2. The appellant is aggrieved by the order of the learned Single Judge in declining to entertain the writ petition for issuance of a writ to the railways and to refund earnest money deposited in pursuance to a tender for purchase of scrap.

3. Learned Single Judge noticed the fact that having received the auction notice and the auction settlement, appellant was required to deposit the bid money, but it has defaulted. The writ petitioner then alleges that he gave application for grant of time on payment of interest but it was not responded to by the Railways.

4. In the counter affidavit before the Writ Court, the stand of the Railways was that response was given which the petitioner refused to accept. In the rejoinder, it is pointed out that letters were issued at incomplete addresses. Learned Single Judge was of the view that there being disputed questions, writ remedy was not appropriate in such matters and relegated the writ petitioner to either go for arbitration as provided under the general terms and conditions of contract or file a suit.

5. Before us the same ground is taken. Writ jurisdiction is not involved for enforcement of purely contractual matters especially when facts are disputed. Merely because, the writ petitioner made

application for extension does not give him a right to get it extended. We may only add that if the writ petitioner was sanguine about seeking extension and making payment, he could have personally gone to the office of the concerned officer of the Railways and demanded the order upon his application. He took no special steps. There is no submission either in the writ petition or in reply to the counter affidavit or in this memorandum of appeal. He could have tendered the money with interest. That was not done. The basic facts being in dispute in writ jurisdiction, the learned Single Judge declined to interfere. We are also not convinced that it is the case which needs interference.

6. Accordingly, this appeal stands dismissed.

(Navaniti Prasad Singh, J.)

(Jitendra Mohan Sharma, J.)

Rajeev/-

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