

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10572 of 2015

=====

Axon Construction Pvt. Ltd.

.... Petitioner/s

Versus

Om Astha Construction Pvt. Ltd. & Ors

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Mukul Sinha

For the Respondent/s : Mr. Sanjay Kumar

=====

CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR

SAHOO

ORAL ORDER

2 08-12-2015 Heard the learned counsel, Mr. Mukul Sinha appearing on behalf of the petitioner and the learned counsel, Mr. Rajan Ghoshrave, appearing on behalf of the respondent No. 2, Canara Bank, on the interlocutory application No. 6010 of 2015.

At the time of hearing of this interlocutory application, both the learned counsels submitted that the writ application itself may be heard on merit in admission matter. Accordingly, I heard them on merit in admission matter.

This application under Article 227 of the Constitution of India has been filed for referring the matter to an arbitrator which is the subject matter of Title Suit No. 789 of 2013 and also for appropriate direction to the Bank, respondent no. 2, to honour the enforcement of bank guarantees in favour of the petitioner's company and also for stay of the order dated 04.01.2014 passed in

Title Suit No. 789 of 2013.

From perusal of the order dated 04.01.2014, it appears that while hearing the application under Order 39 Rule 1 & 2 read with section 151 of the C.P.C., the Court below had issued notice and in the meantime directed the defendants to maintain status quo. Therefore, the order dated 04.01.2014 is an order passed on the injunction application which is appealable. Therefore, the petitioners have got alternative remedy provided under the Code of Civil Procedure.

So far the other relief claimed by the plaintiff are concerned, in supervisory jurisdiction under Article 227 of the Constitution of India, no such direction can be granted as if the court is exercising original jurisdiction. Thus, the writ application has got no merit and accordingly, it is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

U		T	
---	--	---	--