

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION NO.1021 OF 2014
IN
SUIT NO.560 OF 2014**

Essel Vidyut Vitran (Muzafarpur) Ltd. ... Plaintiff
versus
North Bihar Power Distribution Co. Ltd. and Anr. ... Defendants

Mr. S.K.Srivastava i/by M/s. S.K.Srivastava and Co., for Plaintiff.
Mr. Ashok Singh, for Defendant No.1.
Mr. Pavitra Manesh i/by Ms. Vaishali Bhilare, for Canara Bank.
Mr. Purshottam Prasad, Chief Engineer (Commercial) of Defendant No.1,
present.

CORAM: S.J. KATHAWALLA, J.

DATE: 8th SEPTEMBER, 2015

PC.:

1. The Affidavit-in-Reply filed by the Defendant No.1 is taken on record. Pursuant to the order dated 26th August, 2015, Mr. Purshottam Prasad, Chief Engineer of Defendant No.1 Company is present in Court. He has tendered the Affidavit-in-Reply of Defendant No.1 which is taken on record. He further states that pending the arbitration proceedings, the Defendant No.1 shall not invoke the bank guarantee and therefore, the Notice of Motion may accordingly be disposed off. The statement is accepted. The Notice of Motion is disposed of.

2. It is submitted on behalf of the Defendant No.1 that as recorded in

the Consent order dated 28th July, 2015 passed by the Hon'ble High Court at Patna in Criminal Writ Jurisdiction Case No.668 of 2015, all the disputes between the parties including the disputes which are the subject matter in the above Suit, have been referred to Arbitration and therefore, nothing survives in the present Suit. The submission made on behalf of Defendant No.1 appears to be correct. The Plaintiff is therefore, directed to file its Affidavit within two weeks from today explaining as to why the above Suit should not be disposed of in view of the said Consent order dated 28th July, 2015. Stand over to 22th September, 2015, first on board.

(S.J.KATHAWALLA, J.)

Certified to be true and correct copy of the original signed order.