

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.334 of 2016

In

Miscellaneous Jurisdiction Case No. 1653 of 2014

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1. M/s. Sasaram Cold Storage Private Ltd. through its Director Abu Sufyan Son of late Abdul Hannan, Address at Ashikpur , PO- Sasaram ,Distt Rohtas.

2. Abu Sufyan Son of late Abdul Hannan

3. Mumtaz Alam son of late Ajmal Hussain They are Directors of M/s. Sasaram Cold Storage Private Limited Ashikpur , PO Sasaram, Distt Rohtas and also resident of Mohalla- Brahman toli, PO Sasaram , P.s Sasaram town Distt Rohtas.

.... Petitioners

Versus

1. The Bihar State Financial Corporation through its Managing Director Frazer Road, Patna.

2. The Managing Director, Bihar State Financial Corporation , Frazer Road Patna.

3. Branch Manager, Bihar State Financial Corporation Sasaram Branch, now has merged and is called as Branch Manager Bihar State Financial Corporation Sahabad Branch Arrah Bhojpur .

4. District Certificate Officer, Rohtas Sasaram.

.... Opp. Parties

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Appearance :

For the Petitioner/s : Mr. Suresh Mishra, Advocate

For the Respondent/s : Mr. Manikant Mishra, G.P.25

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
ORAL ORDER

3 22-06-2016 I.A.No. 4915 of 2016

The interlocutory application has been filed for bringing on record the petitioners Nos. 2, 4 and 7 of the connected writ petition bearing CWJC No.5212 of 2008 and the restoration application sought to be restored, i.e., MJC No.1653 of 2014, who had not been originally impleaded as petitioners in the present restoration application. A Vakalatnama on behalf of the said petitioners has also been filed.

In the above circumstances, the prayer for adding the aforesaid three petitioners as petitioners in the present application

is allowed.

I.A.No. 4915 of 2016 is, accordingly, disposed of.

I.A.No.4465 of 2016

Learned counsel for the petitioners is permitted to correct paragraph-3 of the I.A. by deleting words “respondent no.5” therein and substituting the same by “petitioner No.3”.

The interlocutory application has been filed for substitution of the heirs and legal representatives of the writ petitioner No.3, who is stated to have died on 11.8.2014. The Vakalatnama duly executed by the proposed heirs has also been filed.

It is submitted that due to wrong advice the original writ petitioner No.3 Abu Noman, who is also the petitioner No.3 in MJC No. 1653 of 2014, which is sought to be restored in the present application, has not been impleaded as a party through his heirs. The wrong is sought to be corrected by filing the present I.A.

In the above circumstances, the heirs and legal representatives of petitioner No.3 of MJC No. 1653 of 2014 (writ petitioner No.3) are permitted to be added as petitioners in the present restoration application.

I.A.No.4465 of 2016 is, accordingly, disposed of.

Heard learned counsel for the petitioners and learned counsels for the State and for the Bihar State Financial

Corporation.

Learned counsel for the petitioners submits that MJC No. 1653 of 2014 has been reported as dismissed on 26.11.2014 by the Registry on account of non-compliance of the order dated 19.11.2014 by which the petitioners had been permitted to remove the other defects within a period of one week from that date, which was a peremptory order. It is submitted by learned counsel for the petitioners that the supplementary affidavit towards removal of the defects had been filed on 26.11.2014 itself.

In my view, the removal of the defect on 26.11.2014 could not be said to be beyond the period granted by this Court and thus the rejection of the restoration application as per the office notes does not appear to be correct.

In the aforesaid circumstances, the present application is allowed and it is directed that MJC No. 1653 of 2014 shall be considered as restored to its original file.

(Ramesh Kumar Datta, J)

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