

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3491 of 2016

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S I C O M Ltd.

.... Petitioner/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Chittaranjan Sinha, Advocate,
Mr. Satyavrat Verma, Advocate.
For the Respondent/s : Mr. Rajan Ghosarve, Advocate.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 24-02-2016

Heard learned senior counsel Mr. Chittaranjan Sinha

on behalf of the petitioner and the learned counsel Mr. Rajan
Ghosarve, on behalf of Canara Bank.

State of Bihar, respondent no.1 has wrongly been
made party in this writ application. Therefore, the name of
respondent No.1 is deleted.

This application under Article 227 of the Constitution
of India has been filed for setting aside the order dated
18.01.2016, passed by the learned Sub-Judge I, Jehanabad in Title
Suit No. 15 of 2016 whereby the Court below admitted the plaint
and directed that till the defendant appears and heard in injunction
matter, both the parties shall maintain *status quo* and bank
guarantee should not be withdrawn or transferred.

Perused the order passed by the Court below. The



grievance of the defendant-petitioner is that the Court below has no jurisdiction to entertain the suit itself, as in view of the agreement between the parties and that in view of the statement made in the plaint, the jurisdiction is on the Civil Court of Maharashtra and not at Jehanabad. The Court below has not considered this aspect of the matter. The Court below has also violated the order by restraining the defendant from encashing the bank guarantee which is prohibited under law. Therefore, the order passed by the Court below restraining the petitioner from encashing the bank guarantee is without jurisdiction and is liable to be set aside.

So far this submission of the learned senior counsel Mr. Sinha as stated above is concerned, it may be mentioned here that this Court is not exercising original jurisdiction. The only direction of the Court below is that till the appearance of the defendant, who is the petitioner herein and hearing in injunction matter, interim order to that effect was passed. Now, therefore, the order passed by the Court below is interim injunction passed in exercise of jurisdiction under Order 39 Rule 1 and 2 of the Code of Civil Procedure. In C.P.C., the provision for appeal under Order 43 Rule 1 (r) is available to the petitioner. Secondly, the Court below has not passed final order.

The petitioner is at liberty to appear before the Court below and raise all these questions about the jurisdiction of the Court and illegality of the order, if any before the Court below because order has been passed only till the appearance and hearing of the petitioner or may if advised file appeal.

In such view of the matter, this application under Article 227 of the constitution of India is not maintainable. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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