

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3569 of 2014

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Kamladitya Construction Pvt. Ltd.			Petitioner/s
	Versus		
The State of Bihar & Ors			 Respondent/s

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with
Miscellaneous Jurisdiction Case No.1348 of 2014
IN
Civil Writ Jurisdiction Case No. 3569 of 2014

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Kamladitya Constructions Pvt. Ltd.			Petitioner/s
	Versus		
The State of Bihar & Ors			 Respondent/s

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with
Miscellaneous Jurisdiction Case No.1151 of 2015
IN
Civil Writ Jurisdiction Case No. 3569 of 2014

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Kamladitya Construction Pvt. Ltd.			Petitioner/s
	Versus		
The State of Bihar & Ors			 Respondent/s

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with
Miscellaneous Jurisdiction Case No.2386 of 2015
IN
Civil Writ Jurisdiction Case No. 3569 of 2014

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Kamladitya Constructions Pvt. Ltd.			Petitioner/s
	Versus		
The State of Bihar Through The Principal Secretary Water Resources Department Govt. of Bihar & Ors			 Respondent/s

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with
Miscellaneous Jurisdiction Case No.2637 of 2014
IN
Civil Writ Jurisdiction Case No. 8216 of 2014

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Kamladitya Constructions Pvt. Ltd.			Petitioner/s
	Versus		
The State of Bihar & Ors			



.... Respondent/s

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Appearance :

(In CWJC No.3569 of 2014)

For the Petitioner/s : Mr. Prabhat Ranjan

For the Respondent/s : Mr. Vikas Kumar

(In MJC No.1348 of 2014)

For the Petitioner/s : Mr. Prabhat Ranjan

For the Respondent/s : Mr. Vikas Kumar

(In MJC No.1151 of 2015)

For the Petitioner/s : Mr. Prabhat Ranjan

For the Respondent/s : Mr. Vikas Kumar

(In MJC No.2386 of 2015)

For the Petitioner/s : Mr. Prabhat Ranjan

For the Respondent/s : Mr. Vikas Kumar

(In MJC No.2637 of 2014)

For the Petitioner/s : Mr. Prabhat Ranjan

For the Respondent/s : Mr. Vikas Kumar

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR

DATTA

ORAL ORDER

31 06-10-2016 Heard learned counsel for the petitioner and learned counsel for the State.

These cases have generated a lot of acrimony between the parties. The matter relates to the contract given to the petitioner for restoration of Main Western Canal Right Afflux Bandh and Done Branch Canal under Nepal Benefit Scheme, 2009, Gandak Project. The agreement cost for the work was Rs.137.584 crores. The date of commencement of work was 6th February, 2011 and the date of completion of the same was 25th February, 2012.

It is admitted that the work has already been completed by 2014, for which time extensions were also granted to the



petitioner. Thereafter, on receipt of certain anonymous complaints from Nepal by the Ministry of Water Resources, Government of India, the matter was referred to the Vigilance Department as also the Water Resources Department of the State Government. Both the Vigilance Department and the Water Resources Department have investigated the matter and certain allegations have been made against the petitioner for use of local materials.

Learned counsel for the petitioner submits that the petitioner was, under the agreement and course of conduct between the parties, permitted to use certain local materials also and thus the entire allegation is misconceived.

It is the further stand of the petitioner that an amount of Rs.42 crores is still to be paid to the petitioner for the remaining part of the bills, which are still pending and are not being paid on the ground that on the basis of the enquiry made, an amount of Rs.8.99 crores is to be recovered from the petitioner.

So far as the dispute regarding the permission to use certain local materials is concerned, this Court is not the proper forum under its writ jurisdiction to decide such dispute. The parties are, therefore, directed to take recourse to the Bihar Public Works Contract Arbitration Tribunal, which shall consider and decide the matter between the parties as to whether there is any



justification for recovery of the amount of Rs.8.99 crores as is the stand of the State Government.

This Court further does not find any justification for the respondents not to pay the admitted dues to the petitioner after withholding an amount of Rs.8.99 crores.

Let the admitted dues be paid to the petitioner after keeping an amount of Rs.8.99 crores within a period of three months from the date of receipt/production of a copy of this order. So far the amount of Rs.8.99 crores is concerned, the recovery of the same shall be subject to the decision of the Bihar Public Works Arbitration Tribunal.

The writ application is, accordingly, disposed of with the aforesaid observations and directions.

This Court makes it clear that none of the issues between the parties has been considered on merit and it shall be open to the parties to raise all such issues before the Arbitration Tribunal. It is further made clear that no coercive action shall be taken against the petitioner until the matter is decided by the Arbitration Tribunal considering the acrimony between the parties and the importance of the matter. The Tribunal is requested to dispose of the matter within a period of three months from the date the parties submit their respective claims.



Let the claim be filed before the Tribunal within a period of six weeks from today.

On the prayer of learned counsel for the petitioner, all the contempt application are also disposed of as not pressed.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

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