

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1031 of 2017
IN
Civil Writ Jurisdiction Case No. 8269 of 2016

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Ravindra Kumar Chaurasiya son of Shri Ganesh Prasad, resident of Village-Sihorwn, Bairiyia, Tola, P.S.- Ramgarhwa, District- East Champaran, Proprietor-M/s Jai Mata Di Rice Mill, District- East Champaran.

.... Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Old Secretariat, Patna.
 2. The Bihar State Food & Civil Supplies Corporation Limited, Khadya Bhawan, Daroga Prasad Path, R- Block, Road No.- 2, Patna- 800001, through its Managing Director.
 3. The Managing Director, Bihar State Food & Civil Supplies Corporation Limited, Khadya Bhawan, Daroga Prasad Path, R- Block, Road No.- 2, Patna- 800001.
 4. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, East Champaran, Motihari.
 5. The Certificate Officer, East Champaran, Motihari. Respondent/s
- =====

Appearance :

For the Appellant/s : Mr. Sumeet Kumar Singh, Advocate
For the State : Mr. Vishwambhar Prasad, AC to AAG-5
For BSFC : Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 04-08-2017

This is an appeal filed by the appellant seeking exception to an order passed on 18.05.2016 in CWJC No. 8269 of 2016.

There being a delay of 395 days, I.A. No. 5208/2017 has been filed for condoning the delay.

Keeping in view the reasons indicated and the fact that various other identical LPAs have been decided on 22.6.2017, we condone the delay in filing of the LPA.

The question involved in the matter is as to whether in the contract in question the respondents can recover the amount by way of certification proceedings without adjudicating the dispute



pertaining to liability of the appellant herein. The question has been decided recently by this Bench on 22.6.2017 in LPA No. 1874 of 2016 and similar LPAs have been allowed and the writ petitions have been restored to its original file and directed to be placed for consideration before the appropriate Bench.

For the reasons and grounds already considered and noted by us in the order dated 22.6.2017, this appeal is allowed. The order dated 6.4.2016 passed in Certificate Case No. 42 of 2014-15 is quashed. The matter is directed to be placed before the Writ Court for proceeding in accordance with law.

During the course of hearing we are informed that for resolution of the dispute an Arbitrator has also been appointed. If that be so, this fact be brought to the notice of the learned Writ Court and the learned Writ Court taking note of the aforesaid fact proceed in the matter.

(Rajendra Menon, CJ)

S.Pandey/-

(Anil Kumar Upadhyay, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.08.2017
Transmission Date	

