

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1700 of 2017

arising out of

Civil Writ Jurisdiction Case No.14895 of 2016

Munna Prasad, son of Bishnudeo Narain Prasad, resident of village- Dhawahi, Police Station- Harsidhi, District- East Champaran at Motihari, the Proprietor of M/s Laxmi Sarshwati Rice Mill, Dhawati, Harsidhi., District East Champaran at Motihari.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Managing Director, Bihar State Food and Civil Supply Corporation, Patna.
3. The District Manager, Bihar State Food and Civil Supply Corporation, East Champaran at Motihari.
4. The District Magistrate, 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. S. Raza Ahmad -AAG 5
		Mr. Vishwambhar Prasad, AC to AAG 5
For BSFC	:	Mr. Shailendra Kumar Singh, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 14-12-2017

Seeking exception to an order dated 20.12.2106 passed in Civil Writ Jurisdiction Case No.14895 of 2016, this appeal has



been filed under Clause 10 of the Letters Patent after a delay of more than 321 days.

When the matter was taken up on 20.12.2016, the petitioner stood satisfied and made a submission that the petitioner was willing to deposit Rs.41,00,000/- (Forty one lacs) and he agreed for depositing the same on the terms and conditions indicated in the order and on such conditions, further recovery was stayed by the learned Writ Court and liberty granted to the parties to proceed in accordance to law. The order passed on 20.12.2016 by the Writ Court on the admission of the petitioner reads as under:-

“The counsel for the petitioner submits that the petitioner is ready to deposit Rs. 41,000,00/- (forty one lacs), as per the order dated 11.03.2015, he was depositing the money. He further submits that instead of depositing Rs.2,00,000/- per month, the petitioner should be given liberty to deposit the rest amount at the rate of Rs. 1,00,000/- (one lakh) per month each in 41 installments.

Let the petitioner deposit the admitted amount for six months @ Rs. 1,00,000/- per month and after six months, he would deposit the amount @ Rs. 1,50,000/- (one lakh fifty thousand) per month for six months and after that, i.e. one year from today, he would deposit the amount @ Rs. 2,00,000/- per month for rest of the amount.

Accordingly, the order dated 11.03.2015 is modified to the aforesaid extent.

The impugned order is stayed, subject to condition that the petitioner would deposit the aforesaid money



within the prescribed time. If he fails to do so, the interim order will be treated to have been withdrawn. Any disputed amount will be settled between the parties.

Accordingly, this petition is disposed of.”

Now, because in certain other cases, this Court had held that before adjudication of the dispute, the recovery is unsustainable, the petitioner takes a somersault and wants that his appeal be also disposed of in terms of the order passed in other cases. This is not permissible. Once the petitioner submitted to the jurisdiction of the Writ Court and when the matter was being heard on 20.12.2016, an admission in the form of compromise was made, we see no reason to permit the petitioner to withdraw from the said admission and compromise made and grant benefit to the petitioner. After adjudication of the dispute by the Arbitrator, the amount paid by the petitioner may be refunded depending upon the decision of the Arbitrator, but on account of the fact that in certain other cases, the legal principle has been followed in a different manner, the petitioner cannot be granted any benefit. The conduct of the petitioner in making admission in the form of compromise, as indicated hereinabove, debars the petitioner in law from seeking indulgence into the matter.



Granting liberty to the petitioner to proceed with the arbitration proceedings and claim relief depending upon the award by the Arbitrator, the appeal stands disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
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