IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1192 of 2016
IN
Civil Writ Jurisdiction Case No. 6745 of 2015

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1. The State Of Bihar Through The Principal Secretary Cum Commissioner Building Construction Department, Vishweshwariya Bhawan , Bailey Road, Jawahar Lal Nehru Marg, Patna Bihar, 800001
2. The Chief Engineer cum Additional Commissioner Cum Special Secretary, Building Construction Department, Govt. of Bihar,Patna.
3. The Chief Engineer(South) Building Cosntruction Department Vishweshwariya Bhawan, Bailey Road, Jawahar Lal Nehru Marg, Patna Bihar 800001
4. The Superintendent Engineer, Building Circle, Gaya, Building Cosntruction Department, Bihar.
5. The Executive Engineer, Building Division Gaya, Building Construction Department , Bihar.
6. The Assistant Engineer , Building Sub Division - 1, Gaya Building Construction Department, Bihar
7. The Junior Engineer Building Sub-Division -1, Gaya Building Construction Department ,Gaya.

.... Appellants

Versus

M/s Remkey Infrastructure Ltd. a company registered under the Companies Act 1956 having its registered office at Ramkey House, Raj bhawan Road, Samajiguada Hyderabad -500082, through its authorized representative Shri Anirban Mukherjee Senior Manager (Project)

.... Respondent

With

Letters Patent Appeal No. 550 of 2016
IN
Civil Writ Jurisdiction Case No. 6745 of 2015

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Kashish Developer Limited having registered office at 87, Old AG Colony, KAdru, Ranchi, Jharkhand, through its Manager Administration, namely, Chandan Kumar, son of Sri Indra Dev Singh, resident of Village- Barauni, Post Office- Teghra, Police Station- Teghra, District- Begusarai.

.... Appellant

Versus

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1. The State of Bihar through the Principal Secretary-cum-Commissioner, Building Construction Department, Vishweshwariya Bhawan, Bailey Road, Jawaharlal Nehru Marg, Patna Bihar-800001.
2. The Chief Engineer Cum Additional Commissioner cum Special Secretary, Building Construction Department, Government of Bihar, Patna.
3. The Chief Engineer, (South), Building Construction Department, Vishweshwariya Bhawan, Bailey Road, Jawaharlal Nehru Marg, Patna, Bihar-800001.
4. The Superintendent Engineer, Building Circle, Gaya, Building Construction Department, Bihar.
5. The Executive Engineer, Building Division, Gaya, Building Construction Department, Bihar.
6. The Assistant Engineer, Building Sub- Division-1, Gaya, Building Construction Department, Bihar.
7. The Junior Engineer, Building Sub- Division-1, Gaya, Building Construction Department, Bihar.
8. M/s Ramky Infrastructure Ltd. a Company registered under the Companies Act, 1956 having its registered office at Ramky House, Raj Bhawan Road, Samajiguda, Hyderabad- 500082 through its authorized representative Shri Anirban Mukherjee, Senior Manager (Projects)

.... Respondents

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Appearance :

(In LPA No.1192 of 2016)

For the Appellants	:	Mr. Anjani Kumar, AAG-IV Mr. Shailendra Kumar Singh, AC to AAG-IV
For the Respondent No.1	:	Mr. Saket Tiwary, Advocate
For the Respondent No. 2	:	Mr. Piyush Lall, Advocate

(In LPA No.550 of 2016)

For the Appellant	:	Mr. Piyush Lall, Advocate Mr. Pravin Kumar Sinha
For the State	:	Mr. Anjani Kumar, AAG-IV Mr. Shailendra Kumar Singh, AC to AAG-IV
For the Respondent No. 8	:	Mr. Saket Tiwary, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

And

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

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Date: 04-12-2017

Having heard learned Additional Advocate General No. IV representing the State and learned counsel representing the private respondent Nos. 1 & 2, we are of the opinion that, in a larger public interest and good, the fresh award of contract, on the basis of tender notice dated 26.03.2015 in favour of private respondent No. 2, who has done some significant amount of work ever since the work was allotted to them, is not required to be interfered with.

2. The Court cannot be unmindful of the fact that the building in question has a public purpose of putting a training institute for the State of Bihar which after bifurcation does not have an institution of the kind. The initial tender was invited in the year 2009, contract was executed in the year 2010 and rather unfortunate that till 2017 the building is still under construction.

3. The Court does not want to go into the issue, as to who was to blame, keeping in mind that Court is giving liberty to the private respondent No. 1 to invoke jurisdiction of the Arbitration Tribunal, which leeway respondent No. 1 was given by the High Court in C.W.J.C. No. 9327/2013, and has been also taken note of and explained by the learned Single Judge in his somewhat concluding part of the order.

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4. The only clarification which is required to be made is that the question of black-listing of the private respondent-the petitioner and the liability which will come upon him due to re-tendering etc. will be subject matter of the arbitration proceeding before the Tribunal. However, the work assigned to the respondent No. 2, must carry on and respondent No. 2 will be well-advised to ensure that there is no omission on their part in completing the contract within a time frame.

5. Both these appeals are disposed off in the light of the observation made above.

6. Before parting, it is made clear that the competent and the concerned authority has an obligation to release the funds in favour of M/s Kashish Developers Limited, timely, so that the contract is executed and the institution becomes functional at the shortest possible time now.

(Ajay Kumar Tripathi, J.)

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.12.2017
Transmission Date	NA

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