

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1316 of 2014
IN
Civil Writ Jurisdiction Case No. 2167 of 2014**

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1. Kamal Plantation Private Ltd. through its Managing Director at P.O. + P.S.- Sasaram, District- Rohtas

2. Ramashray Pandey, son of Sri Ram Badan Pandey, resident of village- Telari, P.O.- Kirhindi, P.S.- Shivsagar, District- Rohtas, Managing Director Kamal Plantation Private Ltd. Sasaram, Rohtas

.... Appellant/s

Versus

1. National Highway Authority of India through its Chairman, Government of India, New Delhi

2. The Chairman, National Highway Authority of India, Government of India, New Delhi

3. The Project Officer, National Highway Authority of India, National Highway No. 1, Varanasi, Maldehia, Varanasi, Uttar Pradesh

4. Arbitrator Cum Additional Collector, Rohtas at Sasaram

5. The State of Bihar through Addl. Collector, Rohtas at Sasaram

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Asutosh Ranjan Pandey, Advocate
Mr. Ramanuj Tiwary, Advocate

For the Respondent/s : Mr. P. N. Sharma, AC to AG

For the NHA I : Mr. S. N. Pathak, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 24-04-2017

Heard learned counsels for the parties.

The writ application of the appellant was dismissed on 22.07.2014. Being aggrieved thereof the present L.P.A. has been filed, challenging the order of the Learned Single Judge.

The reason for dismissal of the writ application has been provided by the Learned Single Judge in the following manner:



“From the record it appears that petitioner has earlier moved this Court vide C.W.J.C. No. 10851 of 2005. At that time already a proceeding vide Case No.237 of 2005 was pending and there petitioner was given notice and he has also participated in the proceeding which is apparent from order dated 10.3.2006 from which it appears that he has brought to the notice of the Arbitrator that already writ petition vide C.W.J.C. No.10851 of 2005 was pending. Thereafter again the matter was proceeded further, the petitioner was present on 21.4.2006 and 7.7.2006, he was heard, thereafter the Arbitrator passed the order on 1.9.2006. But the order dated 11.9.2012 passed in C.W.J.C. No.10851 of 2005 does not disclose that this fact was not brought to the notice of this Court which amounts to suppression of fact as already the Arbitrator has adjudicated the dispute against the petitioner. It was the duty of the petitioner to apprise this Court about the order passed by Arbitrator with respect to the present dispute. It is nothing but suppression of fact and misleading the court. The Arbitrator is right in holding that he is not required to examine the matter on merit as the matter has already been adjudicated and decided in earlier proceeding.”

If the reason provided by the Learned Single Judge cannot be said to be irrational or arbitrary, then in the given facts the only option was to dismiss the writ application.

The Court is of the opinion that the appellant has been playing games instead of asserting his right within the framework of law.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

SKM/-



AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	25.04.2017
Transmission Date	

