

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.433 of 2016
IN
Civil Writ Jurisdiction Case No. 6630 of 2013**

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1. Umesh Kumar S/o Ganga Prasad Resident Of High School Road, P.S.
Jhumritilaiya Diss- Kodarma State- Jharkhand

.... Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Labour Department, Govt of Bihar Patna.
3. Assistant Labour Commissioner, Dalmianagar, Rohtash
4. District Certificate Officer, Rohtash
5. Executive Engineer, Flood Control Division Brahampur, Karagahar,
6. Director General Of Police, Bihar
7. Superintendent Of Police, Buxar
8. Officer In Charge P.S.- Brahampur, Dist.- Buxar
9. Manoj Kumar Singh M/S Sivam Planers Construction Pvt. Ltd., Anand Vihar,
Bely Road, Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Kedar Jha, Advocate
For the Respondent/s : Mr. Rishi Raj Sinha, SC-19
Mr. Saurabh Kumar, AC to SC-19
Ms. Archana Prasad, AC to SC-19

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 29-06-2017

Seeking exception to an order dated 20.7.2015 passed by
the learned Writ Court in C.W.J.C. No.6630 of 2013, this appeal has
been filed under Clause 10 of the Letters Patent.



Facts, in nut shell, go to show that the petitioner was working with a private construction company, namely, M/s Shivam Planners Construction Pvt. Ltd, respondent No.9. As he was not paid salary as is liable to be paid under the Minimum Wages Act, proceedings were initiated under the Minimum Wages Act before the Assistant Labour Commissioner-cum-competent authority and after adjudication an award was passed directing respondent No.9, the employer, to pay a sum of Rs.2,56,969/- to the petitioner.

When the amount was not paid, certificate proceedings were initiated by the petitioner and in spite of the orders passed in the certificate proceedings when the amount was not released, the writ petition was filed. The learned Writ Court found the dispute to be a private dispute between the petitioner and his employer, therefore, disposed of the matter granting liberty to the petitioner to initiate certificate proceedings or approaching the statutory officer in case he has any grievance in the matter.

When the appeal was taken up by us at the stage of admission, we found that once the minimum wages to the petitioner were not paid under the Minimum Wages Act and when there was an award by the statutory authority and when the award was not executed for a period of ten years, we directed the District Magistrate to take action in the matter and, accordingly, on



19.4.2017 a detailed order was passed by a coordinate Bench of this Court directing the District Magistrate to take action in the matter.

From the counter affidavits and the replies filed, particularly the one filed by respondent No.4, we find that the matter has been taken up, the certificate proceedings have been initiated and the Executive Engineer, respondent No.5, the principal employer, has also been directed to deposit the amount and thereafter take steps for recovery of the same from the private employer.

In pursuance to the orders passed on 19.4.2017, we now direct the District Magistrate, Buxar to ensure that the amount payable to the petitioner is recovered either from respondent No.5 and 9 in accordance to the law by taking recourse to such procedures as may be permissible in law, including attachment and sale of the property and the amount awarded by the statutory authority be paid to the petitioner within a period of two months from the date of receipt/production of a copy of this order. Respondent No.5 shall take steps for allotment of fund from the competent authority and make payment of the same to the petitioner and thereafter liberty shall be available to respondent No.5, if permissible in law, to recover the amount from respondent No.9 by following such appropriate procedure as is permissible under law. As far as the



payment to the petitioner is concerned, respondent No.5 shall ensure that the payment is made to the petitioner within a period of two months.

With the aforesaid, this appeal is allowed and disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.jha/-

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CAV DATE	N/A
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