

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.297 of 2017

In

Civil Writ Jurisdiction Case No. 5053 of 2016

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M/s Kumar A. S. Construction, ASHok Nagar, Bhatt Bigha, Gaya through its Managing Partner Smt. Pramila Singh, Wife of Shri Anuj Kumar Singh, Resident of Mohalla-Ashok Nagar, Bhatt Bigha, Gaya, Police Station-Rampur, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Road Construction Department, Secretariat Building, Government of Bihar, Patna.
3. The Engineer-in-Chief-cum-Additional Commissioner-cum-Special Secretary, Road Construction Department, Secretariat Building, Government of Bihar, Patna.
4. The Chief Engineer, National Highway, Road Construction Department (Up-bhag), Government of Bihar, Patna.
5. The Superintending Engineer, National Highway Circle, Dehri-on-Sone, District- Rohtas at Sasaram.
6. The Executive Engineer, National Highway Division, Gaya, District-Gaya.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Ashok Kumar Dubey, Advocate
For the Respondent/s : Mr. Raj Ballav Prasad Yadav, AAG-11
Mr. Dinesh Maharaj, A.C. to AAG-11

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

2 28-03-2017 Heard learned counsel for the petitioner and learned counsel for the State.

In the present proceedings the petitioner wants modification in paragraph of 12 & 13 of the judgment passed by a coordinate Bench of this Court vide order dated 05.9.2016.

“In the aforesaid circumstances, the matter is referred to arbitration in view of the fact that there



is an arbitration clause in the agreement under which one arbitrator each are to be appointed by the parties and the third arbitrator shall be State nominated Arbitrator”.

“Let the parties nominate their respective arbitrators and thereafter the State shall appoint the third Arbitrator. The arbitration shall thereafter proceed in accordance with the provisions of the Arbitration and Conciliation Act”.

The counsel has prayed that the arbitration should be done by the appellate tribunal constituted under the Bihar Public Works Contracts Disputes Arbitration Tribunal Act, 2008. The application has been filed for modification of the order, which is only confined to correction of clerical and arithmetical error. In the garb of modification application, the petitioner cannot be allowed to convert an application for re-writing the judgment.

In such view of the matter, the present application is wholly misconceived. This application is dismissed accordingly.

(Shivaji Pandey, J)

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