

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1213 of 2016

Arising out of

C.W.J.C. No. 17282 of 2011

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1. The Bharat Coking Coal Limited, through its Chairman-cum-Managing Director, Koyla Bhawan, Koyla Nagar, Dhanbad, Jharkhand.
 2. The General Manager, Bharat Coking Coal Limited, Coal Bhawan, Koyla Nagar, Dhanbad, Jharkhand.

.... Appellant/s

Versus

1. M/s Bandana Fuel Industries, a proprietorship concern having its factory at Shankarpur, Sikariyan, Dehri-on-Sone, District - Rohtas (Sasaram) Bihar through its Manager Sri Binod Singh, Son of Sri Jai Mangal Singh, resident of New Delian, P.O. Dehri-on-Sone, P.S. Dehri, District - Rohtas, Sasaram, Bihar.
2. The Branch Manager, Punjab National Bank, Bheria Branch, Rohtas, Bihar.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Arbind Kumar Jha, Advocate

For the Respondent/s : Mr. Vijay Kumar Verma, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 22-06-2017

Seeking exception to an order dated 18.04.2016 passed by the learned Writ Court in C.W.J.C. No. 17282 of 2011 quashing the order dated 03/05.09.2011 passed by the appellant herein, M/s Bharat Coking Coal Limited and directing for refunding the security amount recovered by forfeiture of Bank Guarantee, this appeal has been filed by the appellant Coal Company.

On a perusal of the order passed by the learned Writ Court, it transpires that after termination of the contract in question, the Bank



Guarantee was encashed and both the termination of contract and the act of encashment of the Bank Guarantee was questioned in two different writ petitions. In C.W.J.C. No. 565 of 2012 the order terminating the contract and various consequential action taken was called in question and in C.W.J.C. No. 17282 of 2011 the order of forfeiting the security amount by encashment of the Bank Guarantee was questioned.

As far as C.W.J.C. No. 565 of 2012 pertaining to termination of the contract is concerned, we find from the record that challenging this order, the Coal Company filed an L.P.A. before this Court being L.P.A. No. 288 of 2016 and by a detailed order passed by a coordinate Bench of this Court on 25.04.2017 the said appeal of the Coal Company has been allowed, C.W.J.C. No. 565 of 2012 restored back to its original file and the matter remanded back to the learned Writ Court for proceeding afresh in the matter.

In the impugned order passed in C.W.J.C. No. 17282 of 2011 pertaining to setting aside the order directing for encashment of the Bank Guarantee, primarily the learned Writ Court has interfered and has directed for refund of the amount forfeited. In view of the order passed in C.W.J.C. No. 565 of 2012 and by holding that once the termination of contract has been quashed, the order passed for forfeiture of the Bank Guarantee will also go. In the factual scenario,



once the order passed on 01.10.2011 in C.W.J.C. No. 565 of 2011 has been set aside by this Court and the said writ petition has been remanded back for reconsideration by the Single Bench, this appeal is also required to be allowed, the order impugned quashed and the matter directed to be listed and heard along with C.W.J.C. No. 565 of 2012.

Accordingly, we allow this appeal, quash the order dated 18.04.2016 passed by the Writ Court and direct for listing of both the writ petitions i.e. C.W.J.C. No. 565 of 2012 and C.W.J.C. No. 17282 of 2011 for analogous hearing to be decided by the learned Writ Court in accordance with law after hearing all concerned.

With the aforesaid, the Letters Patent Appeal stands disposed of. All legal questions raised pertaining to forfeiture of the Bank Guarantee and the consequential action taken are left open to be considered by the Writ Court.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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