

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT. JUSTICE T.RAJANI**

Writ Appeal No.836 of 2017

JUDGMENT: (per Hon'ble the Acting Chief Justice Sri Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the ad-interim order passed by the Learned Single Judge in W.P.No.20654 of 2017 dated 23.06.2017 at the stage of admission of the Writ Petition.

The respondents in the Writ Petition has invoked the jurisdiction of this Court under Clause 15 of the Letters Patent aggrieved by the ad-interim order passed by the Learned Single Judge in directing the respondents not to call for fresh tenders for a period of four weeks. It is not in dispute that the bids were invited on 22.02.2015 wherein M/s.K.V.R. Rail Infra Projects was declared to be the lowest bidder. The contention urged before us is that, even by then M/s.K.V.R. Rail Infra Projects had amalgamated with Axis Rail India Limited, and stood dissolved; consequently, they could not have submitted their bid; and the bid submitted by them was invalid.

In the order under appeal, the Learned Single Judge has referred to another opinion filed on behalf of the respondent-writ petitioner that M/s.K.V.R. Rail Infra Projects does not automatically get dissolved on the date of approval of the scheme by the High Court, but continues to exist as a legal entity for all purposes until the various compliances are achieved.

The Board of Directors of NMDC appear to have taken a decision on 15.06.2017 to entrust the work to the Indian Railways which, according to Sri K.Raghavacharyulu, Learned Counsel for the appellants, is not prohibited by the order under appeal. As noted hereinabove, the order under appeal is an ad-interim order passed at

the stage of admission of the Writ Petition granting interim stay, of calling for tenders, only for a period of four weeks. The appellants herein, instead of filing a counter-affidavit and a petition to vacate the interim stay, have chosen to invoke our jurisdiction under Clause 15 of the Letters Patent. An intra-Court appeal, under Clause 15 of the Letters Patent, would not, ordinarily, be entertained against an ad-interim order save in exceptional circumstances. In the present case, while the bid was invited on 22.02.2015, the decision of the Board was taken on 15.06.2017, more than two years and four months thereafter. Having waited for a period of more than two years and four months to cancel the bid, the appellants herein now express urgency contending that the order of the Learned Single Judge would cause them grave prejudice. As the interim order of the Learned Single Judge is only for a period of four weeks and as, even before that date, the appellants can file a counter-affidavit along with a petition seeking vacation of the earlier interim order, we see no reason to interfere with the order under appeal.

The Writ Appeal fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand dismissed. No costs.

RAMESH RANGANATHAN, ACJ

T.RAJANI, J

Date:29.06.2017.

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