IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1333 of 2016
In
Civil Writ Jurisdiction Case No.20462 of 2011

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National Aluminium Company Limited through its Dy. General Manager (Finance) of Captive Power Plant Division and Smelter Division, Captive Power Plant P.O.-Angul, District-Angul, Orissa.

... ... Appellant

Versus

1. The State Bank Of India, Gaya Branch Gaya through its Manager D.b.F. Gaya.
2. Regional Manager, State Bank of India, Gaya.
3. M/s Kalinga Consultancy and Construction Company Pvt. Ltd. through Rakesh Shrivastava, Director having its Registered Office at Angul Puri Colony, P.O. and P.S.-Gaya, District-Gaya.

... ... Respondents

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Appearance :

For the Appellant :	Mr. Syed Arshad Alam, Advocate
	Mrs. Anjum Praveen, Advocate
For the Respondent Bank:	Mr. S.D.Sanjay, Senior Advocate
	Mr. Alok Kumar Agrawal, Advocate
	Ms. Parul Prasad, 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 : 11-01-2018

Heard learned counsel for the appellant as well as learned senior counsel for the State Bank of India.

The impugned order is dated 25.04.2016 passed by the learned single Judge who disposed off the writ application granting liberty to the petitioner to approach an appropriate forum in accordance with law with regard to grievance of payment of interest for the delay in encashment of two bank guarantees which were executed in favour of the appellant.

The submission of learned counsel for the appellant is that a direction should have been issued by the learned single Judge to pay interest for the delay between 1987 to 2007. However, what emerges from perusal of the record is that there have been various bouts of litigation and there was even an order of stay against encashment of the bank guarantee and only after the litigation attained finality in the year 2007 that the Bank was obliged to make payments, which has been done.

Submission of the counsel for the appellant is that the first notice was given on 27.07.1987 but nothing was done till an order of stay was obtained on 12.10.1987 by the other side and then the litigation took over.

Submission of learned senior counsel for the State Bank of India is that there was no extraordinary delay. Steps had been taken after the receipt of the communication from the appellant and the Bank also responded on 22.09.1987. Since there was also a provision for counter guarantee, the bank was taking steps in this regard by which time on 12.10.1987 a stay order of the High Court was passed.

We are of the opinion that in the given facts, the learned single Judge has rightly given liberty and leeway to the appellant to find a forum to agitate the grievance on such issue of payment of interest in settlement of encashment of the bank guarantee and not with regard to the actual payment. The claim of component of interest was a kind of afterthought, it was best left to the appellant to find a forum to agitate the issue. We are not inclined to interfere with the said order in the given facts.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

AFR/NAFR	N.A.F.R.
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