

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.796 of 2016

In
Civil Writ Jurisdiction Case No.433 of 2015

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1. The Union Of India Through The Secretary, Ministry Of Railway, Govt. Of India, New Delhi
 2. The General Manager, East Central Railway, Hajipur.
 3. The Chief Commercial Manager, East Central Railway, Hajipur.
 4. The Divisional Railway Manager (Commercial), Sonpur.
 5. The Goods Superintendent, East Central Railway, Narayanpur, Anant, Muzaffarpur.

... .. Appellant/s

Versus

M/s Ganga Carrier Private Ltd., a company incorporated under the Companies Act, 1956 having its office at 309, Ashiana Towers, Exhibition Road, Patna – 800001 through one of its authorized Signatory, Ankit Choudhary sone of Shri Sanjeev Kumar Choudhary R/o 7th Floor, Kataruka Niwas, South Gandhi Maidan, Patna - 1

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. D.K. Sinha, Sr. Advocate
For the Respondent/s : Mr. Gautam Kumar Kejriwal

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

20 02-05-2018 Heard learned senior counsel for the Railways and

counsel for the private respondent.

The learned Single Judge has taken the factual position based on the pleadings as well as failure on the part of the Railways to controvert those facts that the unloading could not be done by the private respondent because cement was lying in the unloading place already of one Mycem Cement and there was no free space on which the unloading could be done. It also



emerges that the Railways have also collected demurrage as well as wharfage charges from Mycem Cement for their failure to clear up the unloading area within the time frame.

If that be so, then obviously the private respondent cannot be saddled with the responsibility of the failure of some other party, which also stands penalised.

The learned Single Judge, therefore, has rightly allowed the writ application with a direction upon the respondent to refund the payments made by the private respondent under the two heads of Rs. 8,75,460/- and Rs. 2,84,770 respectively.

The appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

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