

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.38 of 2018

IN

Civil Writ Jurisdiction Case No. 14479 of 2007

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The Union of India Through the Ministry Of Railway, Rail Bhawan, New Delhi, through Sri K. Mal, (aged about 59 years), Son of Late Prithi Singh, Resident of ORH No.101, Rajendra Nagar Terminal, Patna.

.... Appellant/s

Versus

1. The State of Bihar through the Secretary, Department of Forest, Government of Bihar, Patna.
2. The Chief Conservator of Forest cum Wild Life Warden, Bihar, 4th Floor, Technology Bhavan, Bishwashariya Complex, Bailey Road, Patna.
3. The Conservator of Forest cum Field Director, Valmiki Tiger Project, West Champaran, Bettiah.
4. The Secretary-Home, Government of Bihar, Old Secretariat, Patna.
5. The Secretary, Ministry of Environment & Forest, Climate Change, Government of India, Indira Paryavaran Bhawan, Jorbag, New Delhi.
6. The National Tiger Conservation Authority through its Director General, Government of India, New Delhi.

.... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. S D Sanjay, Addl. SG Mr. Anil Kumar Sinha
For the Respondent/s	:	Mr. Suresh Kumar Singh, AAG 13 Mr. Ravi Kumar, AC to AAG 13

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 09-01-2018

This appeal filed under Clause 10 of the Letters Patent seeking exception to an order dated 06.12.2017 passed by the learned Writ Court in a pending writ petition. In fact, the order is interlocutory in nature. In the matter of running of trains through Bagaha-Chhatauni railway line cutting through Valmiki Tiger Reserve, the issue is



pending consideration before the learned Writ Court and further hearing in the matter is to be held on 10th of January, 2018, i.e. tomorrow. In the meanwhile, by the impugned interlocutory order dated 06.12.2017 the learned Writ Court issued certain directions in the matter of expenditure to be incurred in execution of the project and contending that the Railway has been saddled with the responsibility of making resources it is contrary to the provision of the Railways Act, 1989, this appeal under Clause 10 of the Letters Patent.

The learned Writ Court took note of a meeting held under the Chairmanship of the Cabinet Secretary, Government of India and various other officials and it was observed on behalf of the Railways it was indicated in the meeting that budget will not be constraint in protecting species which is paramount. The learned Writ Court has, therefore, by the interim order rejected the resistance made by the Railways holding it responsible for making budgetary provision with regard to the project in question.

It is vehemently argued before us that in view of the provisions of Sections 16, 17, 18 and 20 of the Railways Act, 1989, particularly Section 16 of the Act, the liability for incurring expenditure responsibility is on the land owner and not on the Railway Administration and therefore observations made in the interim directions are unsustainable.



We are of the considered view that at this stage when the matter is sub-judice before the learned Writ Court and when the issue pertains to a project wherein the Central Government, Railway Administration and the State are involved, it is not proper for us at this stage to interfere into the matter. The appellant may bring all these facts to the notice of the learned Writ Court where the matter is sub-judice and it is for the learned Writ Court to take note of various issues involved in this matter and proceed in accordance with law. At this stage, we are not inclined to make any indulgence into the matter when it is pending before the learned Writ Court.

The appeal stands disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

mrl/-

AFR/NAFR	NAFR
CAV DATE	N.A.
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