

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1664 of 2017

In
Civil Writ Jurisdiction Case No.1013 of 2017

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Ashok Kumar Rai, Son of Late Ramanand Rai, Resident of Mohalla- South
Mandiri, Police Station- Budha Colony, District- Patna.

... .. Appellant/s

Versus

1. The State of Bihar, through Principal Secretary, Building Construction
Department Govt. of Bihar, Patna.
2. The Principal Secretary, Building Construction Department Govt. of Bihar,
Patna.
3. The Executive Engineer, Gardanibagh, Building Division, Building
Construction Department, Patna.
4. The Assistant Engineer, Gardanibagh Building Division Building
Construction Department, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Sri Krishna Ranjan
For the Respondent/s : Mr. RAJ BALABH PRASAD YADAV - AAG-11

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 23-03-2018

Seeking exception to an order dated 31.10.2017 passed in
C.W.J.C No. 1013 of 2017, this appeal has been filed under
Clause-10 of the Letters Patent Appeal.

Petitioner in pursuance to an advertisement inviting tender
from interested persons vide Tender Notice No. 9 of 2013-14
submitted his offer for dismantling Quarter No. 32 at Gardanibagh
and submitted earnest money of Rs. 1,06,300/-. The amount was
deposited immediately after the contract was awarded, however, as
the Quarter was under illegal occupation by the strangers and anti



social elements, petitioner could not carry out the work entrusted to him for dismantling the Quarter and the authorities were also not taking any step for vacation of the Quarter and permitting its dismantling by the petitioner on such vacation of illegal occupation. Consequently, the earnest money of the petitioner stood deposited since 2014. The petitioner could not carry out the work and faced with the aforesaid situation, petitioner indicated his inability to carry out the work and return of the earnest money. When this was not done, the writ petition was filed and the writ court directed the State Government to get the Quarter vacated within a period of four weeks and thereafter the petitioner to dismantle the Quarter and if this is not done within a period of four weeks, the authority will return the earnest money of Rs. 1,06,300/- with interest @ 10 % per annum. Inter alia contending that once the petitioner was unable to carry out the contract due to circumstance created by the State Government and when the petitioner was not in a position to execute the work due to fault of the State Government.

After hearing learned counsel for the parties, we find that the order in question was passed on 31.10.2017 by the writ court and the direction was that the State should get the Quarter vacated from illegal possession of the anti social elements and hand over



the same to the petitioner within a period of four weeks and if they are unable to do so they will return the amount of earnest money with interest @ 10 per annum. After the order was passed on 31.10.2017, more than six months have passed and today we are informed that the position as it was at the time of filing of writ petition is same.

Keeping in view the aforesaid facts, we allow the appeal and direct that the amount of earnest money of Rs. 1,06,300/- shall be returned back to the petitioner with interest @ 10 % per annum within a period of 2 months from today. In case the aforesaid amount of the appellant is not returned back within a period of two months the interest shall be 18% per annum.

The petition stands disposed of.

(Rajendra Menon, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	28.03.2018
Transmission Date	N.A.

