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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
EX.F.A. 40/2018 & CM No.41237/2018 (for stay)
AIRPORT AUTHORITY OF INDIA Appellant
Through: Mr. K.K. Rai, Sr. Adv. with Mr.
Digvijay Rai & Mr. Kustubh Singh,
Advs.
Versus
YASHPAL SINGH TANWAR Respondent
Through: None.
AND
+ EX.F.A. 28/2017 & CM No.43367/2017 (for stay)
AIRPORTS AUTHORITY OF INDIA Appellant
Through: Mr. Digvijay Rai & Mr. Kustubh
Singh, Advs.
Versus
THE ALL INDIA PRESIDENT AIRPORTS AUTHORITY OF
INDIA MAZDOOR SANGH Respondent
Through: Mr. Puneet Singh & Mr. Prince Sahni,
Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **09.10.2018**

1. This order is in continuation of the earlier order dated 5th October, 2018 in Execution First Appeal (EFA) No.40/2018.
2. The senior counsel for the appellant in EFA No.40/2018 states that an EFA would not lie against the order impugned therein and a petition under Article 227 of the Constitution of India would be the appropriate remedy. The senior counsel, in addition to the judgments mentioned in the order dated 15th October, 2018, has also drawn attention to the dicta of the Full Bench of Patna High Court in *Masomat Narmada Devi Vs. Ram Nandan*

Singh AIR 1987 Pat 33 and states that the same view as taken in the judgments cited in the order dated 5th October, 2018 has been taken by the Full Bench of the High Court of Patna also. He thus states that the EFA No.40/2018 be converted into a petition under Article 227 of the Constitution of India.

3. The counsel for the appellant in EFA No.28/2017 states that the position with respect to this appeal is the same as in EFA No.40/2018 and though the same was partly heard on 11th September, 2018 but would also require to be converted into a petition under Article 227 of the Constitution of India. I may record, that on 31st July, 2018, a question in this regard was posed to the counsels in EFA No.28/2018 also.

4. The counsel for the respondent in EFA No.28/2017 appears.

5. Notice of EFA No.40/2018 has not been issued as yet.

6. Rather than converting these EFAs into petitions under Article 227 of the Constitution of India, it is deemed appropriate to dispose of these appeals as not maintainable, with liberty to the appellant to invoke the appropriate remedy.

7. Accordingly, the EFAs are disposed of as not maintainable. Subject to the appellant having the appropriate proceedings, if any taken, listed before the Court on or before 30th October, 2018, the Executing Courts against whose orders these EFAs were preferred, to not take any precipitative action.

Dasti under signature of Court Master.

RAJIV SAHAI ENDLAW, J

OCTOBER 09, 2018/‘gsr’..