

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.555 of 2018

In
Letters Patent Appeal No.786 of 2018

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1. The Food Corporation of India through its Chairman Cum Managing Director, Head Office 16-20, Barakhamba Lane, New Delhi-1.
 2. The Chairman-cum-Managing Director, Food Corporation of India, Head Office 16-20, Barakhambha Lane, New Delhi- 1.
 3. The General Manager, Food Corporation of India, Regional Office, Arunachal Building 3rd - 4th Floor, Exhibition Road, Patna- 11.
 4. The Area Manager (Saharsa), Food Corporation of India, Saharsa.

... .. Petitioners

Versus

1. Ram Ratan Prasad Yadav, S/o Satya Narayan Yadav, Handling Labourer, Gang No.- 4, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
2. Rajendra Prasad Yadav, S/o Dunilal Yadav, handling Labourer, Gang No.- 7, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
3. Abdhesh Rishideo, Bhutto Rishideo, Handling Labourer, Gang No.- 4, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa
4. Janardan Prasad Yadav, S/o Munnilal Yadav, Handling Labourer, Gang No.- 7, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
5. Sitaram Sharma, S/o Shibu Sharma, Handling Labourer, Gang No.- 4, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
6. Umesh Sharma, S/o Dashrath Sharma, Handling Labourer, Gang No.- 1, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
7. Maneshwar Sharma, S/o Late Chulhai Sharma, Handling Labourer, Gang No.- 1, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
8. Mahabir Yadav, S/o Guneshwar Yadav, Handling Labourer, Gang No.- 4, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
9. Prakash Sharma, S/o Puran Sharma, Handling Labourer, Gang No.- 7, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
10. Md. Allaudin, S/o Hanif Mian, Handling Labourer, Gang No.- 7, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
11. Chandeshwari Prasad Yadav, S/o Turanti Yadav, Handling Labourer, Gang No.- 7, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
12. Krishnanand Yadav, S/o Dunilal Yadav, Handling Labourer, Gang No.- 7, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
13. Vijaylal Yadav, S/o Gorelal Yadav, Handling Labourer, Gang No.- 4, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
14. Krishna Paswan, S/o Ramkrit Paswan, Handling Labourer, Gang No.- 7, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.



15. Lakhnan Prasad Yadav, S/o Bhuvneshwar Prasad Yadav Rishideo, Handling Labourer, Gang No.- 7, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
16. Roshan Kumar, S/o Umeshchandra Yadav, Handling Labourer, Gang No.- 6, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
17. Laxmi Sah, S/o Ragho Sah, Handling Labourer, Gang No.- 2, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
18. Garbhu Sharma, S/o Janak Sharma, Handling Labourer, Gang No.- 7, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
19. Arun Kumar Yadav, S/o Rajendra Yadav, Handling Labourer, Gang No.- 2, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
20. Jogi Yadav, S/o Musafir Yadav, Handling Labourer, Gang No.- 7, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
21. Sikandra Sharma, S/o Vinda Sharma, Handling Labourer, Gang No.- 7, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
22. RamKrishna Yadav, S/o Ram Govind Yadav, Handling Labourer, Gang No.- 2, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
23. Mohan Kumar Paswan, S/o Prabhu Paswan, handling Labourer, Gang No.- 1, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
24. Arun Kumar, S/o Late Sukhdeo Sharma, Handling Labourer, Gang No.- 1, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
25. Sikendra Kumar, S/o Rameshwar Sharma, Handling Labourer, Gang No.- 1, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
26. Laxmi Sharma, S/o Late Buchi Sharma, Handling Labourer, Gang No.- 3, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
27. Shivjee Paswan, S/o Mukti Paswan, Handling Labourer, Gang No.- 1, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
28. Gauri Shankar Sharma, S/o Sukhdeo Sharma, Handling Labourer, Gang No.- 1, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
29. Nirmal Kumar Yadav, S/o Deodat Yadav, Handling Labourer, Gang No.- 4, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
30. Bijendra Kumar, S/o Janardan Yadav, Handling Labourer, Gang No.- 4, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
31. Arvind Kumar Yadav, S/o Radhey Yadav, Handling Labourer, Gang No.- 4, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
32. Mantun Mahto, S/o Turanti Mahto, Handling Labourer, Gang No.- 1, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
33. Unit Sharma, S/o Mukhli Sharma, Handling Labourer, Gang No.- 2, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.
34. Chandrakishor Yadav, S/o Ganeshwar Sharma, Handling Labourer, Gang No.- 7, Saharsa Depot, Food Corporation of India, P.S.- Saharsa, District Saharsa.

... .. Opposite Party/s



with
CIVIL REVIEW No. 558 of 2018
In
Letters Patent Appeal No.795 of 2018

1. The Food Corporation of India through its Chairman Cum Managing Director, Head Office 16-20, Barakhamba Lane, New Delhi-1.
2. The Chairman-cum-Managing Director, Head Office 16-20, Barakhamba Lane, New Delhi-1.
3. The General Manager, Food Corporation of India, Regional Office, Arunachal Building, 3rd-4th Floor, Exhibition Road, Patna-11.
4. The Area Manager (Jaynagar), Food Corporation of India, Madhubani.

... .. Petitioners

Versus

1. Md. Mojibul Rahman, S/o Md. Manzoor, Handling Labourer, Gang No.-3, Jaynagar Depot, Food Corporation of India, Jaynagar, P.S.- Jaynagar, District- Madhubani.
2. Indra Kumar Ram S/o Chalitar Ram Handling Labourer, Gang No.-4, Jaynagar Depot, Food Corporation of India, Jaynagar, P.S.- Jaynagar, District- Madhubani.
3. Ram Narayan Sahni, S/o Dukhi Sahni, Handling Labourer, Gang No.-10, Jaynagar Depot, Food Corporation of India, Jaynagar, P.S.- Jaynagar, District- Madhubani.
4. Md. Jaffar S/o Peer Mohammad Handling Labourer, Gang No.-1, Jaynagar Depot, Food Corporation of India, Jaynagar, P.S.- Jaynagar, District- Madhubani.
5. Lalit Paswan S/o Banarsi Paswan, Handling Labourer, Gang No.-9, Jaynagar Depot, Food Corporation of India, Jaynagar, P.S.- Jaynagar, District- Madhubani.
6. Md. Firoz, S/o Md. Hamid Handling Labourer, Gang No.-3, Jaynagar Depot, Food Corporation of India, Jaynagar, P.S.- Jaynagar, District- Madhubani.
7. Md Lal S/o Gafur Mian, Handling Labourer, Gang No.-4, Jaynagar Depot, Food Corporation of India, Jaynagar, P.S.- Jaynagar, District- Madhubani.
8. Raj Kumar Yadav S/o Pulkit Yadav, Handling Labourer, Gang No.-4, Jaynagar Depot, Food Corporation of India, Jaynagar, P.S.- Jaynagar, District- Madhubani.
9. Prabhu Sahni, S/o Gulab Sahni, Handling Labourer, Gang No.-10, Jaynagar Depot, Food Corporation of India, Jaynagar, P.S.- Jaynagar, District- Madhubani.
10. Phool Babu Sahni, S/o Basudeo Sahni Handling Labourer, Gang No.-2, Jaynagar Depot, Food Corporation of India, Jaynagar, P.S.- Jaynagar, District- Madhubani.
11. Moti Sahni S/o Yugeshwar Sahni, Handling Labourer, Gang No.-10, Jaynagar Depot, Food Corporation of India, Jaynagar, P.S.- Jaynagar, District- Madhubani.



12. Satto Sahni S/o Late Anand Sahni, Handling Labourer, Gang No.-10, Jaynagar Depot, Food Corporation of India, Jaynagar, P.S.- Jaynagar, District- Madhubani.
13. Shiboo Sahni, S/o Shivnandan Sahni, Handling Labourer, Gang No.-10, Jaynagar Depot, Food Corporation of India, Jaynagar, P.S.- Jaynagar, District- Madhubani.
14. Lal Bihari Sahni S/o Late Baijnath Sahni Handling Labourer, Gang No.-10, Jaynagar Depot, Food Corporation of India, Jaynagar, P.S.- Jaynagar, District- Madhubani.
15. Arun Kumar Chaudhary S/o Janardan Chaudhary, Handling Labourer, Gang No.-10, Jaynagar Depot, Food Corporation of India, Jaynagar, P.S.- Jaynagar, District- Madhubani.

... .. Opposite Parties

with
CIVIL REVIEW No. 556 of 2018
In
Letters Patent Appeal No.794 of 2018

1. The Food Corporation of India through Its Chairman Cum Managing Director, Head office- 16-20, Barakhamba Lane, New Delhi-1.
2. The Chairman-cum-Managing Director, Food Corporation of India, Head Office- 16-20, Barakhambha Lane, New Delhi-1.
3. The General Manager, Food Corporation of India, Regional Office, Arunachal Building, 3rd-4th Floor, Exhibition Road, Patna- 11.
4. The Area Manager (Patna), Food Corporation of India, Digha Ghat, Patna- 11.

... .. Petitioners

Versus

1. Kishori Paswan Son of Ramotar Paswan, Handling Labourer, Gang No.-3, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
2. Sohrai Mahto, S/o Late Lali Mahto, Handling Labourer, Gang No.-3, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
3. Siyaram Saw S/o Mahabir Saw, Handling Labourer, Gang No.-3, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
4. Sanjay Kumar, Son of Gariban Jamadar, Handling Labourer, Gang No.-3, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
5. Dayanand Mahto, S/o Nakat Mahto, Handling Labourer, Gang No.-3, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
6. Anandi Paswan, Son of Mathura Paswan, Handling Labourer, Gang No.-3, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
7. Ramadhar Paswan, Son of Bishundeo Paswan, Handling Labourer, Gang No.-3, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
8. Suresh Ray, Son of Yadu Rai, Handling Labourer, Gang No.-3, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.



9. Bhushan Ram, Son of Sitaram Ram, Handling Labourer, Gang No.-3, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
10. Sikandar Paswan, Son of Madan Paswan, Handling Labourer, Gang No.-4, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
11. Ajay Kumar, Son of Gauri Mahto, Handling Labourer, Gang No.-4, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
12. Umesh Paswan, Son of Jalo Paswan, Handling Labourer, Gang No.-4, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
13. Nawal Paswan, Son of Sipahi Paswan, Handling Labourer, Gang No.-4, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
14. Mahesh Yadav, Son of Banarsi Yadav, Handling Labourer, Gang No.-4, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
15. Shambhu Mahto, Son of Bishnudev Mahto, Handling Labourer, Gang No.-4, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
16. Ramanuj Paswan, Son of Basho Das, Handling Labourer, Gang No.-4, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
17. Suresh Yadav, Son of Malik Yadav, Handling Labourer, Gang No.-3, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
18. Mahesh Ram, Son of Ganauri Ram, Handling Labourer, Gang No.-4, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
19. Gopal Mahto, S/o Chando Mahto, Handling Labourer, Gang No.-4, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
20. Amirak Yadav, S/o Shital Yadav, Handling Labourer, Gang No.-4, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
21. Surendra Mahto, S/o Daya Mahto, Gang No. 4, Mokama Depot, Food Corporation of India, P.S. Mokama, District- Patna.
22. Karu Paswan, S/o Babulal Paswan, Handling Labourer, Gang No.-5, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
23. Harinandan Paswan, S/o Najo Paswan, Handling Labourer, Gang No.-5, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
24. Bijay Kumar, S/o Ramswarup Mahto, Handling Labourer, Gang No.-5, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
25. Anil Kumar, S/o Baldev Mahto, Sardar, Gang No.- 5, Mokama Depot, Food Corporation of India, P.S. Mokama, District- Patna.
26. Krishnandan Yadav, S/o Rajo Yadav, Handling Labourer, Gang No.-5, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
27. Anil Mahto, S/o Jhagar Mahto, Handling Labourer, Gang No.-5, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
28. Arvind Kumar, S/o Gauri Mahto, Handling Labourer, Gang No.-5, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
29. Nawal Mahto, S/o Devki Mahto, Handling Labourer, Gang No.-5, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
30. Parmeshwar Mahto, S/o Balmiki Mahto, Handling Labourer, Gang No.-5,



- Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
31. Jitendra Paswan S/o Chamru Das Mandal, Gang No.-5, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
 32. Binod Kumar S/o Ajo Mahto, Handling Labourer, Gang No.-5, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
 33. Chumban Yadav, S/o Udagar Yadav, Handling Labourer, Gang No.-5, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
 34. Mukesh Kumar, S/o Bhaso Yadav, Handling Labourer, Gang No.-5, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
 35. Dhiraj Yadav, S/o Balmiki Yadav, Handling Labourer, Gang No.-5, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
 36. Nande Paswan, S/o Shivan Paswan Mandal, Gang No.- 6, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
 37. Jeetu Yadav, S/o Ramashish Yadav, Handling Labourer, Gang No.-6, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
 38. Purushotam Yadav, S/o Gopal Yadav, Handling Labourer, Gang No.-6, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
 39. Chandra Bhushan Kumar, S/o Yugal Yadav, Handling Labourer, Gang No.-15, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
 40. Abodh Kumar, S/o Shiv Das, Handling Labourer, Gang No.- 15, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
 41. Jagdish Sao, S/o Kishun Sao, Sardar, Gang No. 15, Mokama Depot, Food Corporation of India, P.S. Mokama, District- Patna.
 42. Chandra Shekhar Kumar, S/o Ghamandi Mahto, Handling Labourer, Gang No.- 15, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
 43. Ajay Kumar, S/o Ramdas Tanti, Handling Labourer, Gang No.-15, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
 44. Jitendra Yadav, S/o Ramji Yadav, Handling Labourer, Gang No.-15, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
 45. Dilip Kumar, S/o Lakshan Rai, Handling Labourer, Gang No.- 15, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
 46. Arvind Ram, S/o Chalitar Ram, Handling Labourer, Gang No.-15, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
 47. Kishun Dev Paswan, S/o Sato Das, Handling Labourer, Gang No.- 15, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
 48. Amarjeet Kumar, S/o Mahendra Mahto, Handling Labourer, Gang No.-15, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
 49. Satrudhan Mahto, S/o Chalitar Mahto, Handling Labourer, Gang No.-15, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
 50. Vivekanand Mahto, S/o Janaradan Mahto, Handling Labourer, Gang No.-15, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.



51. Madan Mahto, S/o Sukar Mahto, Gang No.-15, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
52. Lukho Mahto, S/o Late Thakuri Mahto, Sardar, Gang No.-10, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
53. Sato Prasad, S/o Ramanand Mahto, Mandal, Gang No.10, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
54. Manohar Mahto, S/o Pukari Mahto, Handling Labourer, Gang No.- 10, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
55. Yogendra Paswan, S/o Banaras Das, Handling Labourer, Gang No.- 10, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
56. Nanhak Mahto, S/o Late Tanik Mahto, Handling Labourer, Gang No.-10, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
57. Arjun Mahto, S/o Chandar Mahto, Handling Labourer, Gang No.- 10, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
58. Dinesh Paswan, S/o Bahadur Paswan, Handling Labourer, Gang No.- 10, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
59. Jairam Yadav, S/o Batan Yadav, Handling Labourer, Gang No.- 10, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
60. Yogendra Paswan, S/o Ramashish Paswan, Handling Labourer, Gang No.-10, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
61. Rabindra Yadav, S/o Ramotar Yadav, Handling Labourer, Gang No.-10, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
62. Prem Prakash, S/o Sitaram Mahto, Handling Labourer, Gang No.-10, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
63. Shrawan Mahto, S/o Dhano Mahto, Handling Labourer, Gang No.-10, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
64. Ramadhar Mahto, S/o Jalo Mahto, Handling Labourer, Gang No.-12, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
65. Shankar Thakur, S/o Ganga Thakur, Handling Labourer, Gang No.-4, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
66. Sikandar Kumar, S/o Shiv Paswan, Handling Labourer, Gang No.-13, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
67. Kundan Kumar, S/o Muso Nonia, Handling Labourer, Gang No.-3, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
68. Manoj Yadav, S/o Raghunandan Yadav, Handling Labourer, Gang No.-13, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
69. Raghunandan Paswan, S/o Keshri Paswan, Sardar Gang No.- 12, Mokama Depot, Food Corporation of India, P.S. Mokama, District- Patna.
70. Binod Mahto, S/o Suresh Mahto, Handling Labourer, Gang No. 12, Mokama Depot, Food Corporation of India, P.S. Mokama, District- Patna.
71. Ramu Prasad Yadav, S/o Shree Prasad Yadav, Handling Labourer Gang No. 12, Mokama Depot, Food Corporation of India, P.S. Mokama, District- Patna.



72. Prahalad Yadav, S/o Bindi Yadav, Handling Labourer Gang No. 12, Mokama Depot, Food Corporation of India, P.S. Mokama, District- Patna.
73. Ganga Vishnu Tiwari, S/o Raj Kishore Tiwari, Handling Labourer Gang No. 12, Mokama Depot, Food Corporation of India, P.S. Mokama, District- Patna.
74. Laddu Lal Mukhiya, S/o Lagnu Mukhiya, Handling Labourer Gang No. 12, Mokama Depot, Food Corporation of India, P.S. Mokama, District- Patna.
75. Mithileshwar Kumar, S/o Rajendra Paswan, Handling Labourer Gang No. 12, Mokama Depot, Food Corporation of India, P.S. Mokama, District- Patna.
76. Arvind Kumar, S/o Rameshwar Ram, Handling Labourer Gang No. 12, Mokama Depot, Food Corporation of India, P.S. Mokama, District- Patna.
77. Jitan Mahto, S/o Ishwar Mahto, Handling Labourer Gang No. 12, Mokama Depot, Food Corporation of India, P.S. Mokama, District- Patna.
78. Ram Tirath Prasad, S/o Nago Mahto, Sardar, Gang No. 13, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
79. Krishna Murari Mahto, S/o Raj Kumar Mahto, Handling Labourer Gang No. 13, Mokama Depot, Food Corporation of India, P.S. Mokama, District- Patna.
80. Upendra Mahto, S/o Dashrath Mahto, Handling Labourer Gang No. 13, Mokama Depot, Food Corporation of India, P.S. Mokama, District- Patna.
81. Shree Rai, S/o Raghver Rai, Handling Labourer Gang No. 13, Mokama Depot, Food Corporation of India, P.S. Mokama, District- Patna.
82. Deosharan Mahto, S/o Shravan Mahto, Handling Labourer, Gang No. 2, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.
83. Gandhari Mahto, S/o Kunjal Mahto, Handling Labourer Gang No. 2, Mokama Depot, Food Corporation of India, P.S. Mokama, District- Patna.
84. Suraj Nonia, S/o Sita Ram Nonia, Handling Labourer Gang No. 2, Mokama Depot, Food Corporation of India, P.S. Mokama, District- Patna.
85. Gopal Mahto, S/o Shivnandan Mahto, Handling Labourer Gang No. 2, Mokama Depot, Food Corporation of India, P.S. Mokama, District- Patna.
86. Saryug Mahto, S/o Hemnarayan Mahto, Sardar, Gang No. 2, Mokama Depot, Food Corporation of India, P.S.- Mokama, District- Patna.

... .. Opposite Parties

with
CIVIL REVIEW No. 557 of 2018
In
Letters Patent Appeal No.788 of 2018

1. The Food Corporation of India through Its Chairman Cum Managing Director, Head Office 16-20, Barakhamba Lane, New Delhi- 1.
2. The Chairman-Cum-Managing Director, Food Corporation of India, Head Office 16-20, Barakhamba Lane, New Delhi-1.
3. The General Manager, Food Corporation of India, Regional Office,



Arunachal Building, 3rd-4th Floor, Exhibition Road, Patna-11.

4. The Area Manager Food Corporation of India, District Office, Patna.

... .. Petitioners

Versus

1. Ashok Kumar, Son of Janak Ray, Handling Labourer, Gang No.-14, Pulwarisharif Depot, Food Corporation of India, P.S.-Pulwarisharif, District-Patna.
2. Umesh Kumar, S/o Doman Ray, Handling Labourer, Gang No.-14, Phulwarisharif Depot, Food Corporation of India, P.S.-Phulwarisharif, District-Patna.
3. Jainath Prasad S/o Ram Pravesh Rai, handling Labourer, Gang No.-14, Phulwarisharif Depot, Food Corporation of India, P.S.-Phulwarisharif, District-Patna.
4. Umesh Rai, S/o Siyaram Rai, handling Labourer, Gang No.-14, Phulwarisharif Depot, Food Corporation of India, P.S.-Phulwarisharif, District-Patna.
5. Prabhu Dayal Rai, S/o Ganpat Rai, Handling Labourer, Gang No.-14, Phulwarisharif Depot, Food Corporation of India, P.S.-Phulwarisharif, District-Patna.
6. Ganesh Rai, S/o Chaneswar Rai, Handling Labourer, Gang No. 14, Phulwarisharif Depot, Food Corporation of India, P.S.-Phulwarisharif, District-Patna.
7. Lalan Prasad Sao, S/o Late Rameshwar Sao, Handling Labourer, Gang No.-14, Phulwarisharif Depot, Food Corporation of India, P.S.-Phulwarisharif, District-Patna.
8. Ram Janam Rai, S/o Amika Roy, Handling Labourer, Gang No.-14, Pulwarisharif Depot, Food Corporation of India, P.S.-Pulwarisharif, District-Patna.
9. Shiv Kumar Rai, S/o Late Nageswar Rai Mandal, Gang No.-14, Phulwarisharif Depot, Food Corporation of India, P.S.-Phulwarisharif, District-Patna.
10. Barister Rai, S/o Jamuna Rai, Handling Labourer, Gang No.-14, Phulwarisharif Depot, Food Corporation of India, P.S.-Phulwarisharif, District-Patna.
11. Ram Prasad Rai, S/o Late Shiv Rai, Mandal, Gang No.-7, Phulwarisharif Depot, Food Corporation of India, P.S.- Phulwarisharif, District-Patna.

... .. Opposite Parties

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with
CIVIL REVIEW No. 561 of 2018
In
Letters Patent Appeal No.835 of 2018

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1. The Food Corporation of India Through The Chairman Cum Managing Director and Ors
2. The Chairman-cum-Managing Director, Head Office 16-20, Barakhamba



Lane, New Delhi- 1.

3. The General Manager, Food Corporation of India, Regional Office, Arunachal Building 3rd- 4th Floor,
4. The Area Manager Purnea, Food Corporation of India, Purnea.

... .. Petitioners

Versus

1. Dayanand Ray S/o Doman Ray Sardar, Gang No.- 5, Katihar Depot, Food Corporation of India, P.S.- Katihar, District Katihar.
2. Arun Mahto, S/o Late Shadu Sharan Mahto, Handling Labourer, Gang No.- 5, Katihar Depot, Food Corporation of India, P.S.- Katihar, District Katihar.
3. Prabhu Saw, S/o Sri Rambriksha Swa, Handling Labourer, Gang No.- 5, Katihar Depot, Food Corporation of India, P.S.- Katihar, District Katihar.
4. Mohan Rai, S/o Asha Rai, Handling Labourer, Gang No.- 5, Katihar Depot, Food Corporation of India, P.S.- Katihar, District Katihar.
5. Chunchun Kumar, S/o Karu Thakur, Handling Labourer, Gang No.- 5, Katihar Depot, Food Corporation of India, P.S.- Katihar, District Katihar.
6. Niwas Mandal, S/o Mohan Mandal, Gang No.- 5, Katihar Depot, Food Corporation of India, P.S.- Katihar, District Katihar.
7. Pradeep Sahni, S/o Jamun Sahni, Handling Labourer, Gang No.- 5, Katihar Depot, Food Corporation of India, P.S.- Katihar, District Katihar.
8. Gobind Kumar Chaudhary, S/o Anandi Choudhary, Handling Labourer, Gang No.- 2, Katihar Depot, Food Corporation of India, P.S.- Katihar, District Katihar.
9. Kapil Deo Chaudhary, S/o Mahendra Chaudhary, Handling Labourer, Gang No.-1, Katihar Depot, Food Corporation of India, P.S.- Katihar, District Katihar.
10. Munnu Ram, S/o Prasadi Ram, Handling Labourer, Gang No.- 2, Katihar Depot, Food Corporation of India, P.S.- Katihar, District Katihar.
11. Rajendra Singh, S/o Anandi Singh, Handling Labourer, Gang No.- 3, Katihar Depot, Food Corporation of India, P.S.- Katihar, District Katihar.
12. Bijo Yadav, S/o Bato Yadav, Mandal, Gang No.- 2, Katihar Depot, Food Corporation of India, P.S.- Katihar, District Katihar.
13. Ramanand Roy, S/o Buchi Roy, Sardar, Gang No.- 7, Katihar Depot, Food Corporation of India, P.S.- Katihar, District Katihar.
14. Suresh Roy, S/o Vishwanath Roy, Handling Labourer, Gang No.- 7, Katihar Depot, Food Corporation of India, P.S.- Katihar, District Katihar.
15. Anil Poddar, S/o Jivach Poddar, Handling Labourer, Gang No.- 7, Katihar Depot, Food Corporation of India, P.S.- Katihar, District Katihar.
16. Anirudh Kumar Mandal, S/o Domi Mandal, Handling Labourer, Gang No.- 7, Katihar Depot, Food Corporation of India, P.S.- Katihar, District Katihar.
17. Binod Kumar Paswan, S/o Mahendra Paswan, Handling Labourer, Gang No.- 7, Katihar Depot, Food Corporation of India, P.S.- Katihar, District Katihar.
18. Raj Kumar Ray, S/o Sinhasan Ray, Handling Labourer, Gang No.- 7, Katihar



Depot, Food Corporation of India, P.S.- Katihar, District Katihar.

20. Ramchandra Rai, S/o Nand Rai, Handling Labourer, Gang No.- 7, Katihar Depot, Food Corporation of India, P.S.- Katihar, District Katihar.
21. Ramji Mandal, S/o Narayan Mandal, Sardar, Gang No.- 4, Katihar Depot, Food Corporation of India, P.S.- Katihar, District Katihar.
22. Devanand Ram, S/o Dhanukdhri Ram, Handling Labourer, Gang No.- 5, Katihar Depot, Food Corporation of India, P.S.- Katihar, District Katihar.
23. Anil Paswan, S/o Akal Paswan, Handling Labourer, Gang No.- 4, Katihar Depot, Food Corporation of India, P.S.- Katihar, District Katihar.
24. Manoj Kumar Prabhakar, S/o Jagdish Ram, Handling Labourer, Gang No.- 3, Katihar Depot, Food Corporation of India, P.S.- Katihar, District Katihar.
25. Dinesh Kumar Sah, S/o Lakhan Sah, Handling Labourer, Gang No.- 5, Katihar Depot, Food Corporation of India, P.S.- Katihar, District Katihar.
26. Yugal Paswan, S/o Shiv Narayan Paswan, Handling Labourer, Gang No.- 3, Katihar Depot, Food Corporation of India, P.S.- Katihar, District Katihar.

... .. Opposite Parties

with
CIVIL REVIEW No. 560 of 2018
In
Letters Patent Appeal No.815 of 2018

1. The Food Corporation of India Through The Chairman Cum Managing Director and Ors
2. The Chairman-cum-Managing Director, Head Office 16-20, Barakhamba Lane, New Delhi-1.
3. The General Manager, Food Corporation of India, Regional Office, Arunachal Building, 3rd-4th Floor,
4. The Area Manager Narayanpur Anant, Food Corporation of India, Muzaffarpur.

... .. Petitioners

Versus

1. Upendra Mahto S/o Shri Dipu Mahato Handling Labourer, Gang No.-5, Muzaffarpur Depot, Food Corporation of India, Narayanpur Anant, P.S.- Sadar, District- Muzaffarpur.
2. Ravindra Kumar S/o Challitar Mahto Handling Labourer, Gang No.-11, Muzaffarpur Depot, Food Corporation of India, Narayanpur Anant, P.S.- Sadar, District- Muzaffarpur.
3. Krishna Mahto S/o Waso Mahato Handling Labourer, Gang No.-16, Muzaffarpur Depot, Food Corporation of India, Narayanpur Anant, P.S.- Sadar, District- Muzaffarpur.
4. Gagandeo Hajra S/o Late Nathu Hajra Handling Labourer, Gang No.-5, Muzaffarpur Depot, Food Corporation of India, Narayanpur Anant, P.S.- Sadar, District- Muzaffarpur.
5. Hussain Mian S/o Sishaque Mian Handling Labourer, Gang No.-5,



- Muzaffarpur Depot, Food Corporation of India, Narayanpur Anant, P.S.-Sadar, District- Muzaffarpur.
6. Suresh Mahto S/o Shakal Mahato Handling Labourer, Gang No.-12, Muzaffarpur Depot, Food Corporation of India, Narayanpur Anant, P.S.-Sadar, District- Muzaffarpur.
 7. Ramashish Mahto S/o Ramjee Mahato Handling Labourer, Gang No.- 5, Muzaffarpur Depot, Food Corporation of India, Narayanpur Anant, P.S.-Sadar, District- Muzaffarpur.
 8. Dharamvir Kumar S/o Babulal Mahato Handling Labourer, Gang No.-5, Muzaffarpur Depot, Food Corporation of India, Narayanpur Anant, P.S.-Sadar, District- Muzaffarpur.
 9. Dinesh Prasad S/o Chandrika Mahato Handling Labourer, Gang No.-1, Muzaffarpur Depot, Food Corporation of India, Narayanpur Anant, P.S.-Sadar, District- Muzaffarpur.
 10. Bhagwan Prasad S/o Ram Swarup Mahato Handling Labourer, Gang No.-2, Muzaffarpur Depot, Food Corporation of India, Narayanpur Anant, P.S.-Sadar, District- Muzaffarpur.
 11. Gadho Mahto S/o Vrij Mahto Handling Labourer, Gang No.-25, Muzaffarpur Depot, Food Corporation of India, Narayanpur Anant, P.S.-Sadar, District- Muzaffarpur.
 12. Bhuneshwar Mahto S/o Shanichar Mahato Handling Labourer, Gang No.-5, Muzaffarpur Depot, Food Corporation of India, Narayanpur Anant, P.S.-Sadar, District- Muzaffarpur.
 13. Surendra Mahto S/o Late Virju Mahato Handling Labourer, Gang No.-7, Muzaffarpur Depot, Food Corporation of India, Narayanpur Anant, P.S.-Sadar, District- Muzaffarpur.
 14. Ramakant Mahto S/o Dhanraj Mahto Handling Labourer, Gang No.-7, Muzaffarpur Depot, Food Corporation of India, Narayanpur Anant, P.S.-Sadar, District- Muzaffarpur.

... .. Opposite Parties

with
CIVIL REVIEW No. 559 of 2018
In
Letters Patent Appeal No.796 of 2018

1. The Food Corporation of India through its Chairman - Cum Managing Director, Head Office 16-20, Barakhamba Lane, New Delhi-1.
2. The Chairman-cum-Managing Director, Head Office 16-20, Barakhamba Lane, New Delhi-1.
3. The General Manager, Food Corporation of India, Regional Office, Arunachal Building, 3rd-4th Floor, Exhibition Road, Patna-11.
4. The Area Manager (Gaya), Food Corporation of India, Gaya.

... .. Petitioner/s

Versus

1. Sunil Kumar S/o Dev Sharan Yadav Handling Labourer, Gang No.-2, Gaya



- Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
2. Vishwanath Prasad S/o Raj Kumar Yadav, Handling Labourer, Gang No.-1, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
 3. Shivnarayan Yadav S/o Sidheshwar Yadav, Handling Labourer, Gang No.-3, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
 4. Nagendra Kumar, S/o Jaigovind Yadav, Handling Labourer, Gang No.-3, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
 5. Vijay Kumar S/o Rambali Yadav, Handling Labourer, Gang No.-3, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
 6. Ashok Kumar Paswan, S/o Bale Paswan, Mandal, Gang No.-1, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
 7. Shiromani Paswan S/o Ram Lagan Paswan, Handling Labourer, Gang No.-21, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
 8. Harinandan Paswan S/o Brahma Deo Paswan Mandal, Gang No.-21, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
 9. Shankar Kumar S/o Kishori Das, Handling Labourer, Gang No.-21, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
 10. Rajesh Jamadar S/o Jugeshwar Jamadar, Handling Labourer, Gang No.-21, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
 11. Rambriksha Paswan S/o Late Siyaram Paswan, Handling Labourer, Gang No.-21, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
 12. Janardan Paswan S/o Ramashish Mahto Handling Labourer, Gang No.12, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
 13. Ram Pravesh Mahto S/o Lalo Mahto, Handling Labourer, Gang No.12, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
 14. Akhilesh Ray S/o Radhakishun Ray, Handling Labourer, Gang No.21, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
 15. Mongali Rai S/o Ramlal Rai Handling Labourer, Gang No.20, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
 16. Lalan Manjhi S/o Jagdish Manjhi, Handling Labourer, Gang No.20, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
 17. Ram Pravesh Manjhi S/o Gaho Manjhi Handling Labourer, Gang No.20, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
 18. Manohar Yadav S/o Late Barho Yadav, Handling Labourer, Gang No.20, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
 19. Laldeo Paswan S/o Ramkhelawan Paswan, Handling Labourer, Gang No.2, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
 20. Parshuram Paswan S/o Ambika Paswan, Handling Labourer, Gang No.20, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
 21. Upendra Kumar S/o Jagdeo Paswan Handling Labourer, Gang No.13, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
 22. Vijay Kumar Paswan S/o Late Nanki Paswan. Handling Labourer, Gang No.13, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.



23. Mahendra Paswan S/o Shiv Sharan Paswan, Handling Labourer, Gang No.1, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
24. Chando Mahto S/o not known to the petitioner, Handling Labourer, Gang No.13, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
25. Ramnarayan Paswan S/o Rameshwar Paswan, Handling Labourer, Gang No.13, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
26. Karu Mahto S/o Shoshan Mahto Sardar, Gang No.21, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
27. Bindeshwar Yadav S/o Late Shyam Lal Yadav Sardar, Gang No.20, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
28. Ram Naresh Paswan S/o Late Lakhan Paswan, Handling Labourer, Gang No.20, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
29. Mahendra Mahto S/o Baunu Mahto Handling Labourer, Gang No.20, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
30. Badri Kumar S/o Rudal Mahto, Handling Labourer, Gang No.20, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
31. Guru Das S/o Shiv Das Handling Labourer, Gang No.21, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.
32. Nawal Kishore Mahto, S/o Late Devki Mahto, Handling Labourer, Gang No.20, Gaya Depot, Food Corporation of India, P.S.- Gaya, District- Gaya.

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr.P.K. Verma, Sr. Advocate
Mr.Saket Tiwary, Advocate
For the Opposite Party/s : Mr.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

C.AV. JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 08-05-2019

This batch of Civil Review Applications have been preferred by and on behalf of the Food Corporation of India and its authorities seeking review of the judgment and order dated 05.07.2018 passed in L.P.A.No. 786 of 2018 by which the Division Bench of this Court while hearing the Letters Patent



Appeals filed by the appellants/petitioners against the order passed by the learned Single Judge on 18.05.2018 in C.W.J.C. No. 6072 of 2018 refused to interfere with the order of the learned Single Judge.

It appears that the judgment dated 05.07.2018 was challenged before the Hon'ble Supreme Court of India. On 05.10.2018 the Hon'ble Supreme Court had been pleased to pass the following order:

“Upon hearing the counsel the Court made the following O R D E R

We find no reason to entertain this special leave petition, which is, accordingly, dismissed.

Pending application (s), if any, shall stand disposed of.”

Mr. P. K. Verma, learned Senior Counsel representing the Food Corporation of India (hereinafter referred to as the ‘Corporation’) has informed this Court that against the common judgment dated 05.07.2018 passed in the batch of Letters Patent Appeal, the appellant/petitioner had filed only one Special Leave Petition which has been dismissed vide the order quoted hereinabove. After the dismissal of the Special Leave Petition, the present batch of Civil Review has been filed.



In course of argument, learned Senior Counsel submits that in view of the recent judgment of the Hon'ble Surpeme Court in the case of **Khoday Distilleries Ltd. (now known as Khoday India Limited) & Others Vs. Sri Mahadeshwara Sahakara Sakkare Karkhane Ltd. Kollegal (Under Liquidation) represented by the liquidator** reported in (2019) 4 SCC 376 the Hon'ble Supreme Court considered as to whether there was any conflict in so far as ratio of two cases i.e. **Abbai Maligai Partnership Firm v. K. Santhakumaran (1998) 7 Scc 386** are concerned, after taking a view that the detail judgment in **Kunhayammed v. State of Kerala (2000) 6 SCC 359** laws days the correct law and there was no conflict between the two judgments, their Lordships recorded in paragraph 27 as under:

“A petition for leave to appeal to this Court may be dismissed by a non-speaking order or by a speaking order. Whatever be the phraseology employed in the order of dismissal, if it is a non-speaking order, i.e. it does not assign reasons for dismissing the special leave petition, it would neither attract the doctrine of merger so as to stand substituted in place of the order put in issue before it nor would it be a declaration of law by the Supreme Court under Article 141 of the Constitution for there is no law which has been declared. If the order of dismissal be supported by reasons then also the doctrine of merger would not be attracted because the jurisdiction exercised was not an



appellate jurisdiction but merely a discretionary jurisdiction refusing to grant leave to appeal. We have already dealt with this aspect earlier. Still the reasons stated by the Court would attract applicability of Article 141 of the Constitution if there is a law declared by the Supreme Court which obviously would be binding on all the courts and tribunals in India and certainly the parties thereto. The statement contained in the order other than on points of law would be binding on the parties and the court or tribunal, whose order was under challenge on the principle of judicial discipline, this Court being the apex court of the country. No court or tribunal or parties would have the liberty of taking or canvassing any view contrary to the one expressed by this Court. The order of Supreme Court would mean that it has declared the law and in that light the case was considered not fit for grant of leave. The declaration of law will be governed by Article 141 but still, the case not being one where leave was granted, the doctrine of merger does not apply. The Court sometimes leaves the question (sic) open. Or it sometimes briefly lays down the principle, may be, contrary to the one laid down By the High Court and yet would dismiss the special leave petition. The reasons given are intended for purposes of Article 141. This is so done because in the event of merely dismissing the special leave petition, it is likely that an argument could be advanced in the High Court that the Supreme Court has to be understood as not to have differed in law with the High Court.”



It is submitted that in paragraph 38 of the judgment in the case of **Kunhayammed** (supra) their Lordships made it clear that review can be preferred in the High Court before a Special Leave is granted but not after it is granted. It is submitted that the fact that the Special Leave Petition has been dismissed in the present case would not make any difference so far as maintainability of the civil review application is concerned.

We have perused the order passed by the Hon'ble Supreme Court in the Special Leave Petition and come to a conclusion that the Special Leave Petition was dismissed in limine without granting leave to appeal, hence, the present review applications are maintainable.

Learned Senior Counsel has argued the review petition on merit. It is submitted that the order passed by the learned Single Judge as well as the Hon'ble Division Bench suffer from errors apparent on the face of the record. The following errors have been pointed out in the written notes of argument submitted on behalf of the petitioner which are quoted hereunder:

“i. The Hon'ble Single Judge as well as the Hon'ble Division Bench have passed the order relying on the principles laid down by the Apex court in State Punjab Vs. Rafiq Masih (2015) 4 SCC 334 holding that the workers having been allowed payments of incentives since past several years, the same cannot be subjected to recovery now upon implementation of the New Incentive Scheme. But unfortunately the Court went further



to set aside the very Circular No. 08/2016 and 01/2018 dated 17.08.2016 and 17.01.2017 respectively issued by the Food Corporation of India towards implementation of the CGIT Award which had upheld the New Incentive Scheme earlier issued under Circular No. 18/2005 dated 15.12.2005 whereby the datum for calculation of incentives was changed from 105 bags of 95 kg in a day to 135 bags of 50 kg thus the very order becomes self contradictory as the principles laid down in Rafiq Masih cannot be allowed to operate on the very circular implementing the New Incentive Scheme and Award given by the CGIT setting in it aside.

ii. The Court further erred by wrongly presuming the stay of the New Incentive Scheme under Circular 18/2005 by the FCI itself vide its Circular 18/2005 by the FCI itself vide its Circular 05/2006 dated 20.02.2006 (Annexure-4 to writ petition) as to until disposal of the Industrial Dispute where in fact the Circular categorically declared that the stay was till the dispute pending before the RLC (C) New Delhi i.e. during the conciliation proceeding which was apparently for a very short duration. Once the failure report was submitted by RLC the stay automatically stood vacated as the proceeding before the Conciliating Officer comes to an end as a report is submitted. Evidently conciliation proceeding was concluded in the first quarter of 2006 thus there was no stay continuing after that. The court therefore committed error of record by wrongly presuming the said stay to be until the disposal of pending dispute as will be evident from internal page 20-20 of the judgment of the LPA.

iii. The Court further erred in coming to yet another contrary presumption that the stay of implementation of Circular 18/2005 and payment to be made pursuant to that stay ought to have been made subject to result of adjudication of Industrial Dispute before the Tribunal. The above mentioned assumption could not be made because the stay was not to continue until disposal of entire industrial dispute and hence there was no occasion to incorporate such a stipulation in the order of stay. If the stay order issued in 2006 itself provided that it shall come to an end as soon



as the conciliation proceeding is concluded before the RLC there was no reason or necessity to incorporate the stipulation, thus the error is apparent on the case of record.

iv. That the orders of the Hon'ble Single Judge followed by the order passed in the LPA also suffers from apparent mistake of law wherein a presumption was made that Section 31 or Section 33 of the Industrial Dispute Act 1947 requires that Circular objected to giving rise to Industrial Dispute like Circular No. 18/2005 a prior permission for effecting the same would be necessary from either the conciliation officer or CGIT who later on referred the matter for adjudication to the CGIT. A bare perusal of Section 33 of I.D. Act would show that the provision contemplates prior permission in change of employment condition while dispute is pending before the authority, with respect to connected matters and in which there are concerned workers in the present case admittedly there was no industrial dispute whatsoever, pending before either the conciliation officer or any court where Circular No. 18/2005 was issued bringing in New Incentive Scheme was in question. Thus, there was no occasion for seeking any prior permission/permission from the conciliation officer or the Industrial court because Section 33 or Section 31 of the Industrial Dispute Act was not applicable.

v. That error apparent on the face of record is also evident from the record that the conclusion drawn for bringing in the bag handlers as poor class IV employees within the ratio laid down in Rafiq Masih case is in direct contradiction of the very finding recorded by the Bombay High Court reiterated by the CGIT, Delhi in its Award dated 05.07.2016 kept at Annexure-5 to the writ petition. Perusal of para 22, 23 and 36 of the Award would show how departmental bag handlers were getting astronomically higher wages by way of incentive compared to other workers. Hence, the ratio of the Apex Court was even otherwise not applicable in the present matter.

vi. That the Court has also over looked that the workers representatives of various states had given undertaking that in case the Datum is



revised to 135 bags, the excess incentives would be returned by the workers which is evident from Circular No. 08/2016 dated 17.08.2016 (Annexure-6 to the writ petition). In view of the undertaking evidently, no converse presumption with regard to allowing higher incentive on the old rate could have been drawn as has been done in both the orders.”

First ground for review, questions the setting aside of the Circular No. 08 of 2016 and 01 of 2017 dated 17.08.2016 and 17.01.2017 respectively issued by the Corporation which according to the appellant/petitioner were issued towards implementation of the Industrial Tribunal Award. Submission of the appellant/petitioner is that setting aside of those circulars are in conflict with the principles laid down in the case of **State of Punjab & Ors. Vs. Rafique Masih (White Washer)** reported in **(2015) 4 SCC 354**. It is the submission that the principles laid down in the **Rafique Masih** (supra) cannot be allowed to operate on the very circular implementing new incentive scheme.

We find from the judgment of the Hon’ble Division Bench that the Circulars no. 08 of 2016 and 01 of 2017 were under challenge in the writ application. A perusal of the impugned circulars as contained in Annexure ‘6’ to the writ application would show that the question referred before the Central Government Industrial Tribunal (in short ‘CGIT’)/ Labour Court was as under:



“Whether the demand of the Union for withdrawing the new incentive scheme announced vide Circular No. 18/2005 dated 15-12-2005 is legal and justified ? If not, to what relief is the workmen entitled.”

The Hon’ble Tribunal vide award dated 05.07.2016 held that the demand of the FCI unions for withdrawing the new incentive scheme announced vide its Circular No. 1B/2005 dated 15.12.2005 is neither legal nor justified under the law. Reference was answered accordingly.

The petitioners/opposite parties got aggrieved by the aforesaid circulars only because the Corporation sought to recover the incentive wages which were paid during the pendency of the reference case before the ‘CGIT/Labour Court’. The contention of learned Senior Counsel that the learned Single Judge quashed the aforesaid circulars which were looking to implement the award of the ‘CGIT’ is not correct inasmuch as the ‘CGIT’ award nowhere considers issue of recovery of the incentive amounts already paid to the petitioners/respondents during the pendency of the reference cases. Concluding paragraph of the award of the Tribunal recorded in paragraph 36 reads as under:

“36. Having said so, the Tribunal is of the view that in the wake of the judgment of Hon’ble High Court of Bombay, discussed above, wherein



recommendations of Saxena Committee, ILO Report as well as High Level Committee appointed by the Government of India (Ministry of Food, Consumer Affairs and Public Distribution), have been discussed in extenso and grave concern expressed by the Hon'ble High Court for not implementing the recommendations contained in the said report, the Tribunal is of the considered opinion that Government as well as Food Corporation of India is well within its powers to take policy decision regarding norms to be followed in loading and unloading of sacks etc. Accordingly, it is held that demand of the FCI unions for withdrawing the new incentive scheme announced vide circular No. 18/2005 dated 15.12.2005 is neither legal nor justified under the law. Reference is answered accordingly. An award is, accordingly, passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.”

Mr. Verma, learned Senior Counsel has in course of argument given much emphasis on the contents of the letter dated February 20, 2006 as contained in Annexure ‘4’ to the writ application which is reproduced hereunder:

“Food
Corporation
of India
No.IR(L)/4 (62)2002/Vol. II Dated February 20 2006
Sub:- Piece Rate incentive Scheme of handling bags
weighing up to 50 kg. By Departmental Workers in
inland depots of Food Corporation of India.
Sir,



Attention is invited to Hqrs. Circular No. 18/2005 dated 15th December, 2006 issued from the file of even no of the subject cited.

Whereas the Regional Labour Commissioner (Central), New Delhi is seized of the Industrial Dispute vide her letter No. RLC (C). New Delhi has drawn the attention of the Management to the provisions contained in Section 33 of the Industrial Dispute Act, 1947.

Therefore it has been decided by the competent authority that the implementation of circular No. 18/2005 dated 15th December, 2005 with regard to the payment of incentive wages as per revised norms of the Deoaitinental workers of the stayed till the dispute is pending before the RLC (G) New Delhi.

Sd/ Illegible

Dy. General Manager (IR-LC)”

It is his submission that the implementation of Circular

No. 18/2005 dated 15th December, 2005 with regard to payment of incentive wages as per revised norms were stayed till the dispute was pending before the RLC (C), New Delhi. (Emphasis supplied).

It is submitted that once the proceeding before the RLC (C), New Delhi was over, the stay on the implementation of Circular No. 18/05 did not exist, therefore, what has been paid during and thereafter, to the workers are liable to be recovered.

The technicality of the argument that Annexure ‘4’ lost its effect after the dispute was referred to the Labour Court loses its significance when we find that it is the Corporation who continued with the self imposed ban after stay of the implementation of Circular No. 18/2005 dated 15th December, 2005 during pendency of the Industrial Disputes before the CGIT/Labour Court. If it is the contention of Mr. Verma that the



stay on the implementation of the Circular No. 18/2005 was not there during the pendency of the Industrial Dispute, therefore, the incentives paid by the workers as per old scheme is in access to their entitlement, hence, those are liable to be recovered, we would only reiterate our views expressed in the Division Bench judgment in the following words:

“The Circulars nowhere says that the decision to stay the implementation of Circular No. 18 of 2005 and the payments which will be made pursuant to such stay will be subject to the result of the adjudication of industrial dispute before the Tribunal and may be subject to recovery at any stage. If the management of FCI had any intention to recover the amounts which were being paid by virtue of their own Circular No. 5 of 2006 and Circular No. 11 of 2006 a clear stipulation to that effect would have, perhaps benefited the management in supporting their contention at this stage, but for them now it is a matter of past, much water has flown by now, the management has made payments to the workers/petitioners during pendency of the industrial dispute over a period of about 11-12 years. These petitioners are the bag handlers and in the nature of their works, at this stage if they are called upon to pay back the incentive amount which was paid to them for last 11-12 years, perhaps they will be in a very difficult situation. There is nothing to suggest that even for a minute they could have any idea that after 11-12 years they will be asked to pay back the incentives amount. This Court sitting in its writ jurisdiction cannot ignore the circumstances which it may envisage if the workers/petitioners are directed to refund the entire amount of incentives of last 12 years. The hardships which are likely to be faced by the writ petitioners are not only ground which this Court is taking into consideration. The larger issue is that the management of FCI having itself implemented the old scheme by issuing Annexure- 4 and 4/A respectively to the writ application during



pendency of the industrial dispute or conciliation proceeding without providing any information to the workers that such payments will be subject to recovery, at this stage cannot be permitted to come out with a decision to implement their scheme under Circular No. 18 of 2005 with retrospective effect. In the garb of giving retrospective effect to their Circular No. 18 of 2005, in the given circumstances the management of FCI cannot be allowed either on legal grounds or on equitable consideration to recover the amount already paid to the petitioners.”

Mr. Verma has also contended that at some places the workers had given an undertaking that in case the handling of bags being revised to 135 bags then the excess amount will be refunded by the workers. We fail to understand that after all why the Corporation did not invoke the undertakings immediately after the proceeding was over before the RLC (C) at New Delhi. Instead of invoking the undertaking, if the Corporation continued to make payment even after reference of dispute to the CGIT/Labour Court without there being any further undertaking and without any general stipulation for all in Annexure ‘4’ to the writ application that the payments being made to the workers may be liable for recovery, at this stage the action taken by the Corporation for recovery of the amount from the workers is neither legal nor justified.

We are therefore, not persuaded to accept the submissions of learned Senior Counsel that the decision of the



learned Single Judge and the Hon'ble Division Bench of this Court run counter to the principles laid down in **Rafique Masih** (supra).

In view of the discussions hereinabove, the ground no. (ii) and (iii) set out in the notes of argument are also liable to be rejected. If the stay as contained in Annexure '4' to the writ application was not to continue until disposal of the entire industrial disputes, the argument of the petitioner/appellant has lost its significance as it is they who have continued with the self imposed stay during pendency of the industrial dispute and they never came out with any circular / notification of implementation of the Circular No. 18/2005 dated 15.12.2005.

The ground no. (iv) seems to be fully misplaced inasmuch as it would appear from the judgment dated 18.05.2018 passed by the learned Single Judge as also from the judgment of the Hon'ble Division Bench of this Court that at no point of time the Court has proceeded on any presumption based on Sections 31 and 33 of the Industrial Disputes Act, 1947. It would appear that the Court has simply taken note of submissions of the parties but its decision is based on the fact that the respondents i.e. the appellants are present petitioners never ever pressed their request for implementation of decision taken vide Circular No. 18/2005



and further that while passing the award the Tribunal has not ordered for recovery of alleged excess wage incentive from the workers paid for handling bags since 01.12.2005. Thereafter, reliance has been placed on the judgment of **Rafique Masih** (supra) thus, this ground is also liable to fail.

The ground no. (v) does not appeal to this Court inasmuch as it would appear from the judgment of the learned Single Judge as well as the Division Bench are based on the merits of the case, the factual aspects and the legal positions have been discussed besides the hardship which would be likely to be faced by the workers if they are called upon to refund their wages incentives earned during last 11-12 years.

So far as ground no. (vi) is concerned, this Court has dealt with the undertaking aspect of the matter hereinabove. It is reiterated that the Corporation never invoked the undertakings said to have been given by some of the workers, immediately after the matter was over before the RLC (C), New Delhi. Rather the Corporation continued with the ban on implementation of its new scheme during pendency of the Industrial Disputes before the CGIT / Labour Court and continued with payments to the workers.

We also find from the counter affidavit that it is their own case that Circular No. 18/22005 was stayed because of



statutory requirement and while filing the counter affidavit the Corporation did not come out with a plea that the recovery was sought to be made by virtue of there being an undertaking. In paragraph '7' of the counter affidavit in writ it is their own plea that the Circular as contained in Annexure '3' to the writ application by which rates were revised was under challenge before the Industrial Tribunal and in view of Section '33' of the Industrial Disputes Act, the Corporation had stayed the operation of Annexure '3' vide order dated 12.04.2016 contained in Annexure '4A' to the writ application. The issue of undertaking were, thus, not raised before the writ Court. Even in the Letters Patent Appeal one of the grounds (no. vi) had been raised saying that it was a legal duty of the Management of the FCI to stay the operation of Circular dated 15.10.2005 which was the subject matter of the disputes pending before the Industrial Tribunal under the provisions contained in Section 33 of the Industrial Disputes Act, non-compliance of which was penal offence under Section 33 of the Industrial Disputes Act. There was no ground in the memo of appeal raising the issue of recovery based on an undertaking. Thus, neither at the stage of writ application nor in the Letters Patent Appeal this issue was raised.



The review application has been filed raising this issue for the first time.

This Court has discussed the same in detail in order to ensure that the principles of review as laid down in the judgment of **Musammat Kamna Kuar Versus Lal Bahadur and Others** reported in **AIR 1950 (Federal Court) 131** is fully taken care of and no injustice be caused to the parties due to any error appaent on the fact of record.

This Court finds no error apparent on the face of the record, these review applications have, thus, no merit. They are accordingly, dismissed.

(Amreshwar Pratap Sahi, CJ)

(Rajeev Ranjan Prasad, J)

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