

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.185 of 2019

In
Civil Writ Jurisdiction Case No.16557 of 2018

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1. The Bihar State Food and Civil Supplies Corporation Limited through its Managing Director, 5th Floor, Sone Bhawan, Patna-800001
 2. The Managing Director, Bihar State Food and Civil Supplies Corporation Limited through its Managing Director, 5th Floor, Sone Bhawan, Patna-800001
 3. The Chief of Administration, Bihar State Food Corporation Head Quarters, Patna.
 4. The District Manager, Bihar State Food Corporation, District-Bhojpur, Bihar.

... .. Respondents- Appellant/s

Versus

M/s Raj Traders through its Proprietor Pushpa Devi, Wife of Sri Rameshwar Prasad @ Pappu Sah, Resident of K.G.Road, P.S.-Ara Nawada, Distt.-Bhojpur, Bihar.

... .. Petitioner- Respondent/s

Appearance :

For the Appellant/s : Mr. Anjani Kumar, Senior Advocate
Mr. Shailendra Kumar Singh, Advocate

For the Respondent/s : Mr. Prabhat Ranjan, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 06-09-2019

Heard Shri Anjani Kumar, learned Senior Counsel
for the appellants and Shri Prabhat Ranjan, learned counsel for
the respondent.

The issue with regard to the claim of payments
arising out of the impugned judgement is the subject matter of
this appeal.



On a prima facie assessment of the facts, this Court had passed an order on 30th January, 2019 which is extracted hereinunder:-

“Heard Shri Anjani Kumar, learned Senior Advocate for the appellant-Corporation.

The appeal questions the correctness of the impugned judgment dated 31st of August, 2018 on the ground that the learned single Judge disposed of the writ petition on the same day while dealing with it as a fresh matter without granting any time to the appellant-Corporation to file a counter affidavit. It is also submitted that the nature of the directions given by the Court were taken into account and as a matter of fact, it is the respondent who has to pay back an amount of rupees One crore and more and as such, the respondent is not entitled to receive any amount from the appellant keeping in view the aforesaid dues, which are realizable otherwise. Leaned counsel submits that orders have been passed by the Managing Director in relation to the dues for the year 2012-13 and 2013-14 for the contract of transportation payable to the respondent to the tune of Rs.47,61,615/-. However a cheque of Rs.43,87,989.22 paise dated 25th of January, 2019, which has been drawn in favour of the respondent, has been tendered before the Court. The said cheque has been received by Shri. Prabhat Ranjan, learned



counsel for the respondent who has made an endorsement with regard to the receipt thereof. The respondents are entitled to encash the said cheque, subject to the outcome of this appeal.

In view of the issues, which have been raised in this appeal, we request the learned single Judge to keep M.J.C.No.4210 of 2018 in abeyance as the appeal is being heard by us.

The respondent may file a response within three weeks, one week for reply to the appellants.

The appeal shall be listed on 11.03.2019.”

After exchange of affidavits at that stage, the Court passed the following order on 15th July, 2019.

“We have heard Shri Anjani Kumar, learned senior counsel for the appellant.

It is submitted on the basis of instructions received by him that so far as payment of 5% interest is concerned, the appellant will comply with the same in case the directions are issued.

Accordingly, we direct that in view of the calculation already made, in the letter dated 29th January, 2019, the amount referred to therein be paid to the respondent.

There is yet another deficiency with regard to the payments in respect of the recommendation made by the District Manager on 1st July, 2015 in relation to the payments of 2013-2014.



Learned counsel contends that since the respondent-petitioner has failed to provide any documents with regard to handling, therefore, it is not possible to make the said payments.

The recommendations have been made by the District Manager. We, therefore, direct the District Manager, Bhojpur to verify the said amount which has been referred to in the letter dated 1st July, 2015 and send his intimation to the concerned official of the appellant Corporation within two weeks from today. In the event the same is verified and any payment is due according to the said recommendation, the appellant shall also make the said payment within three weeks.

List on 5th August, 2019.”

A supplementary affidavit came to be filed on behalf of the appellants and upon a consideration thereof, the third order passed was on 16.08.2019 which is extracted hereinunder:-

“An affidavit has been filed on behalf of the respondent stating therein that a partial payment of Rs.7,67,898/- was tendered through a cheque drawn on the Punjab National Bank dated 8th August, 2019. The said cheque could not be encashed as per the memo. issued by the Bank as funds were insufficient. The cheque, therefore, has not been honoured and there is no genuine payment.

Learned counsel submits that this does not amount to any compliance.

Shri Anjani Kumar, learned senior counsel



submits that in order to ensure compliance by genuine payment, he maybe granted two weeks' time.

Two weeks' time, as prayed for, is granted.
List on 2.9.2019.”

The payment has been made thereafter except for a certain amount. This issue therefore relating to payments stood resolved after the exchange of affidavits and after hearing the arguments on previous three occasions, but for a shortfall of Rs.4,80,774/- all other payments stand satisfied. This short fall has been calculated on the basis of the payments claimed and the payments made which figure stands indicated in an order of the Managing Director dated 22nd January, 2019.

In the background aforesaid and in view of the aforesaid facts that have emerged, we find that the respondent has already received an amount of Rs.43,87,989.22 through cheques which stands admitted by the appellants in the rejoinder petition dated 16th July, 2019.

Upon having heard learned counsel for the parties what we find is that the appellants have taken their stand through their letter dated 2.8.2019, copy whereof has been filed as Annexure-C to the supplementary affidavit dated 02.09.2019, that two of the bills out of four are missing and not traceable in the office of the appellants. It is that impediment which has



impelled the appellants to withhold the aforesaid balance amount of payment.

Learned counsel for the appellants submits that the respondent should provide documents in order to proceed with the payments of the aforesaid two bills.

Learned counsel for the respondent submits that the respondent can file an affidavit to that effect, and accordingly we direct that if the respondent files an affidavit in respect of the two bills for the unpaid amount of Rs.4,80,774/- indicated hereinabove, the same shall be acknowledged by the appellants and the payment shall be released thereafter. This would be a final settlement in respect of the said claim between the parties. The payment be made within fifteen days from today.

The appeal stands disposed of accordingly.

(Amreshwar Pratap Sahi, CJ)

(Ashutosh Kumar, J)

Sunil/-

AFR/NAFR	
CAV DATE	
Uploading Date	09.09.2019
Transmission Date	

