

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1118 of 2019**

M/S Kumar Auto Infra Private Limited having registered office by First Floor, Pankaj Market, Gudri Road, P.O. and P.S. Hajipur, District- Vaishali, through its M.D., Pankaj Kumar Rai @ Pankaj Kumar (Male), aged about 38 years, son of Late Ram Prasad Rai, resident of village- Minapur, P.O. and P.S.- Hajipur, District- Vaishali. Defendant- Petitioner

Versus

Binay Kumar son of Late Chandradeo Singh, resident of Flat No. 402, Pawan Pradeep Apartment. Khetan Lane, Boring Canal Road, P.S.- S.K. Puri, District- Patna. Respondent

Appearance :

For the Petitioner : None
For the Respondent/s : Mr. Nand Kishore Singh, Advocate

**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT**

Date : 02-08-2019

No one appears for the petitioner. Learned
counsel for the respondent is present.

2. This application under Article 227 of the Constitution of India has been filed by the petitioner challenging the order dated 06.03.2019 passed by the Commercial Court, Patna in Commercial Case (T.Suit) No.03 of 2017 whereby the court has dismissed the petition filed by the defendant-petitioner under Section 11 of the Commercial Courts Act, 2015.

3. Section 13 of the Commercial Courts Act, 2015 prescribes that any person aggrieved by the judgment or order of a Commercial Court at the level of District Judge exercising original civil jurisdiction or, as the case may be, Commercial Division of a High Court may appeal to the Commercial Appellate Division of that High Court within a



period of sixty days from the date of the judgment or order.

The proviso to the aforesaid sub-section (1-A) of Section 13 says that an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are specifically enumerated under Order XLIII of the Code of Civil Procedure, 1908 as amended by this Act and Section 37 of Arbitration and Conciliation Act, 1996.

4. Since the order impugned has been passed by the Commercial Court of the rank of District Judge, an appeal would lie before the Commercial Division of this High Court under Section 13 of the Commercial Courts Act, 2015.

5. In that view of the matter, I am of the opinion that the application in its present form is not maintainable.

6. Accordingly, the application is dismissed as not maintainable with liberty to the petitioner to file an application in accordance with law before the Commercial Division of this Court in the same subject matter.

Md. S/-

(Ashwani Kumar Singh, J)

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	07.08.2019
Transmission Date	

