

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.43 of 2014

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National Highway Authority Of India Through Its Project Director, Project Implementation Unit (PIU), Araria, having its office in the house of Sikandar Singh, Saheban Hata Near, Mahananda Colony, Purnia.

... .. Appellant/s

Versus

1. Radha Krishna Agarwal S/O Late Bhagwsan Lal Agarwal Resident Of Village Simrahi, P.S. Raghapur, District Supoul.
2. Additional Collector, Supaul Arbitrator Appointed Under N.H. Act 1956 For Supaul.
3. District Land Acquisition Officer, Supaul.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Mithilesh Kumar Rai, Adv
For the Respondent/s	:	Mr. Upendra Yadav, Adv & Mr. Manoj Kumar Gupta, Adv

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 11-09-2019

Heard learned counsel for the parties.

This appeal has been filed on behalf of National Highway Authority of India Ltd. (NHAI) for setting aside the order dated 16.08.2013 passed in M.A. No. 18 of 2011, by which learned Sub-judge-I, Supaul, has dismissed the miscellaneous case filed on behalf of appellant under Section 34 of the Arbitration and Conciliation Act, 1996.

A Division Bench of this Court in the case of **Shivam Housing Private Ltd. & Ors Vs. Thakur Mithilesh Kumar**



Singh & Ors since reported in **2015(3) PLJR 876**, has held that *"Section 18 of the Civil Courts Act, inter alia, provides the extent of original jurisdiction of District, Subordinate Judge to all original suits cognizable by civil courts subject to Section 15 of the Code of Civil Procedure which provides that the suit shall be instituted in the court of the lowest grade competent to try it. The scheme of the Act, however, is contrary to the scheme of the Code of Civil Procedure which requires a suit to be instituted, tried by the court of lowest grade competent to try the suit, as in terms of Section 34 read with sub-section (1)(e) of Section 2 the arbitral award is required to be assailed before the Principal Civil Court of original jurisdiction which will not include any civil court of a grade inferior, as such, in terms of the Act it is only the District Judge who has jurisdiction to consider the challenge made to the arbitral award."*

In view of the above, the order passed by learned Sub-judge is without jurisdiction, accordingly, the order as impugned in the appeal is set aside and matter is remitted to the court of District Judge, who has been held to be the Principal Civil Court of original jurisdiction, who shall consider the application of appellant under Section 34 of the Arbitration Act and decide the matter after hearing all the parties preferably within two months from the date of production/receipt of a copy of the order passed by this Court.



Let the LCR of this case be returned to the court of District Judge, Supaul, forthwith.

With the aforesaid observation and direction, this appeal stands disposed of.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
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