

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No. 1502 of 2018

In

Civil Writ Jurisdiction Case No. 17917 of 2016

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Yogendra Prasad Yadav, son of Late Sita Ram Prasad Yadav, resident of Vill.-
Madhurapur, P.O.-Narayanpur, P.S.-Bihpur, Distt.-Bhagalpur.

... .. Appellant

Versus

1. The State of Bihar
2. The State of Bihar through the Chief Secretary, Old Secretariat, Govt. of Bihar, Patna.
3. The Secretary, Department of Water Resources-cum- Chairman, Bihar State Construction Corporation Ltd., Patna
4. Bihar State Construction Corporation Ltd. Through its Managing Director and its Head Quarter at Khwaja Imli, Anisabad, Patna.
5. The Managing Director, Bihar State Construction Corporation Ltd., Office at Khwaja Imli, Anisabad, Patna.
6. The Secretary, Administration, Bihar State Construction Corporation Ltd., Office at Khwaja Imli, Anisabad, Patna.

... .. Respondents

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with

Letters Patent Appeal No. 783 of 2017

In

Civil Writ Jurisdiction Case No. 1232 of 2015

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1. The Bihar State Construction Corporation Limited through its Managing Director at its Head Quarter at Khwaja Imli, Anishabad, Patna.
 2. The Secretary, Department of Water Resources-cum-Chairman, Bihar State Construction Corporation Limited.
 3. The Managing Director, Bihar State Construction Corporation Limited, Office at Khwaja Imli, Anishabad, Patna.
 4. The Secretary, Administration, Bihar, State Construction Corporation Limited, Office at Khwaja Imli, Anishabad, Patna.

... .. Appellants

Versus

1. Binod Kumar Srivastava Son of Late Siyber Saran Srivastava at present resident of C/o Alok Kumar Srivastava, Mohalla-Anandpuri Bibiganj, P.O.-M.I.T., P.S.-Brahmpura, District-Muzaffarpur (Bihar).
2. The State of Bihar, through the Chief Secretary, Old Secretariat, Patna.

... .. Respondents

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with
Letters Patent Appeal No. 553 of 2018
In
Civil Writ Jurisdiction Case No. 16370 of 2016

Yadunath Prasad, Son of Late Mohan Sah, Resident of Village- Lakhan Sarai
'Tej Singh', P.O.- Pratap Tad, Police Station- Lalganj, District- Vaishali.

... .. Appellant

Versus

1. The State of Bihar
2. The State of Bihar through the Chief Secretary, Old Secretariat, Govt. of Bihar, Patna.
3. The Secretary, Department of Water Resources-cum-Chairman, Bihar State Construction Corporation Ltd., Patna.
4. Bihar State Construction Corporation Limited through its Managing Director and its Head Quarter at Khwaja Imli, Anisabad, Patna.
5. The Managing Director, Bihar State Construction Corporation Limited, Office at Khwaja Imli, Anisabad, Patna.
6. The Secretary, Administration, Bihar State Construction Corporation Limited, Office at Khwaja Imli, Anisabad, Patna.

... .. Respondents

with
Letters Patent Appeal No. 1478 of 2018
In
Civil Writ Jurisdiction Case No. 16586 of 2016

Brahmanand Singh, Son of Late Kalanand Singh, Resident of Vill.-Bhagauli,
P.S.-Patarghat, Distt.-Saharsa.

... .. Appellant

Versus

1. The State of Bihar
2. The State of Bihar through the Chief Secretary, Old Secretariat, Govt. of Bihar, Patna.
3. The Secretary, Department of Water Resources-Cum-Chairman, Bihar State Construction Corporation Ltd., Patna.
4. Bihar State Construction Corporation Ltd. Through its Managing Director and its Head Quarter at Khwaja Imli, Anisabad, Patna.
5. The Managing Director, Bihar State Construction Corporation Ltd., Office at Khawaja Imli, Anisabad, Patna.
6. The Secretary, Administration, Bihar State Construction Corporation Ltd., Office at Khwaja Imli, Anisabad, Patna.

... .. Respondents



with
Letters Patent Appeal No. 1482 of 2018
In
Civil Writ Jurisdiction Case No. 18152 of 2016

Saryug Prasad Singh, Son of Late Hulas Singh, Resident of Vill.-Saidanichak,
P.O.-Mitan Chak, P.S.-Parsa Bazar, Distt.-Patna.

... .. Appellant

Versus

1. The State of Bihar
2. The State of Bihar through the Chief Secretary, Old Secretariat, Govt. of Bihar, Patna.
3. The Secretary, Department of Water Resources-cum-Chairman, Bihar State Construction Corporation Ltd., Patna.
4. Bihar State Construction Corporation Ltd. through its Managing Director and its Head Quarter at Khwaja Imli, Anisabad, Patna.
5. The Managing Director, Bihar State Construction Corporation Ltd., Office at Khwaja Imli, Anisabad, Patna.
6. The Secretary, Administration, Bihar State Construction Corporation Ltd. Office at Khwaja Imli, Anisabad, Patna.

... .. Respondents

Appearance :

(In Letters Patent Appeal No. 1502 of 2018)

For the Appellant/s : Mr. Anil Kumar Choudhary, Advocate
For the State : Mr. Anjani Kumar- AAG-4
Mr. Deepak Sahay Jamuar, A.C. to AAG-4
For B.S.C.C.Ltd. : Dr. Anand Kumar, Advocate

(In Letters Patent Appeal No. 783 of 2017)

For the Appellant/s : Mr. Harshvardhan Shivsundaram
For the Respondent – 1 : Mr. Md. Nurul Hoda, Advocate
For the State : Mr. Anjani Kumar-AAG4

(In Letters Patent Appeal No. 553 of 2018)

For the Appellant/s : Mr. Anil Kumar Choudhary
For the Respondent/s : Mr. Anjani Kumar -AAG4

(In Letters Patent Appeal No. 1478 of 2018)

For the Appellant/s : Mr. Anil Kumar Choudhary
For the Respondent/s : Mr. Anjani Kumar -AAG4

(In Letters Patent Appeal No. 1482 of 2018)

For the Appellant/s : Mr. Anil Kumar Choudhary
For the Respondent/s : Mr. Anjani Kumar -AAG4

**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

and

HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER



(Per: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH)

5. 05-12-2019 Heard the parties.

It is submitted on behalf of the Respondent/Bihar State Construction Corporation Ltd. (for short “Corporation”) that in similar circumstance, earlier a Division Bench of this Court in Letters Patent Appeal No. 177 of 2018 (*The Chairman, Bihar State Construction Corporation Ltd. vs. Ishwar Chandra Sharma and Ors.*), vide judgment/order dated 08-10-2018, has been pleased to observe following (paragraph 9):

“In view of the above and for the reasons stated above, and in view of the changed circumstances referred to hereinabove, present Letters Patent Appeal is **Allowed** and the impugned judgment and order passed by the learned Single Judge is, hereby, quashed and set aside with liberty to the original writ petitioner, either to intervene in the said proceedings before the National Company Law Tribunal, Kolkata Bench or to wait for the outcome and then take appropriate steps, in accordance with law, before the appropriate forum. It will be open for the original writ petitioner to submit an appropriate application before the National Company Law Tribunal, Kolkata Bench for payment of his dues pointing out the special circumstances, and the learned Tribunal may consider the same, in accordance with law, for which we have not expressed anything in favour of any party.”

It has further been submitted on behalf of respondent/Corporation that recently, an order has also been



passed on 16th October, 2019 by the Member (J), National Company Law Tribunal, Kolkata Bench, whereby; Moratorium was declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016.

In the light of above submission on behalf of respondent/Corporation as well as order dated 16-10-19 of the National Company Law Tribunal, all the aforesaid L.P.As. (except L.P.A. No. 783 of 2017) may be disposed of granting liberty to the appellants either to intervene in the said proceedings before the National Company Law Tribunal, Kolkata Bench or to wait for the outcome and then take appropriate steps before the appropriate forum.

Accordingly, L.P.A. No. 1502/2018, L.P.A. No. 553/2018, L.P.A. No. 1478/2018 and L.P.A. No. 1482/2018 are disposed of with the aforesaid observations and L.P.A. No. 783 of 2017, which was preferred by the Bihar State Construction Corporation Limited, is, hereby, allowed.

(Hemant Kumar Srivastava, J.)

(Prabhat Kumar Singh, J.)

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