

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.491 of 2018

In
Civil Writ Jurisdiction Case No.8955 of 2011

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1. The State of Bihar through Principal Secretary, Road Construction Department, Vishweshwaraiya Bhawan, Baily Road, Patna.
 2. The Joint Secretary, Road Construction Department, Vishweshwaraiya Bhawan, Bailey Road, Patna.
 3. Engineer in Chief Cum Additional Commissioner cum Special Secretary, Road Construction Department, Vishweshwaraiya Bhawan, Baily Road, Patna.
 4. Chief Engineer, Road Construction Department, South Bihar, Darbhanga.
 5. Superintend Engineer, Road Construction Department (R.C.C.), Saran Circle, Hajipur, Vaishali.
 6. The Executive Engineer, Vaishali Road Division, Hajipur, Vaishali.

... .. Appellants

Versus

1. M/S Laxmi Enterprises, a proprietorship firm through its Proprietor namely Bireshwar Prasad Shukla, Son of late Rameshwar Prasad Shukla resident of Village Khanjaha Chak, P.S. Lalganj, District Vaishali.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Kunal Tiwary AC To GA 2
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

4 03-04-2019

Re: I.A. No. 2747 of 2018

This interlocutory application is filed for condonation
of delay of 250 days in filing the appeal.

We have heard Mr. Kunal Tiwary, learned AC to GA 2
appearing for the appellants and having considered his
submissions and in the backdrop of the reasons assigned in the



interlocutory application, we are satisfied to condone the delay so cause in filing the appeal, which is accordingly condoned.

I.A. No. 2747 of 2018 is allowed.

Re: L.P.A. No. 491 of 2018

This Letters Patent Appeal arises from the judgment and order dated 28.06.2017 of a learned Single Judge passed in CWJC No. 8955 of 2011, whereby the writ petition was allowed in terms of the prayer made in paragraph-1 of the writ petition, whereby the writ petitioner had questioned the order dated 10.12.2010 whereby his prayer for extension of time has been rejected and the money due to him for execution of the work done has been withheld.

Mr. Tiwary, learned counsel appearing for the appellants while assailing the order of the learned Single Judge submits that the fault entirely lies with the petitioner for the delayed completion of the work beyond the contract period but while submitting as such, he does admit that the work was duly completed by the petitioner.

We fail to appreciate that once the writ petitioner was allowed to complete the work and there is no complaint against the work quality executed by the petitioner, how the respondent can withhold the amount due to him for the work completed



even if with some delay. We take notice of the observations of the learned Single Judge at paragraph-8 of the impugned order put to challenge before us that the application of the writ petitioner for extension of time in fact has been recommended by the authorities who permitted continuation and completion of work and according whereto the writ petitioner completed the work so allotted to him. It is thereafter that the respondents have proceeded to reject the application for extension of time post facto.

We are in no confusion to hold that the expression of the learned Single Judge to allow the writ petition requires no interference for it stands supported by the legal position as well as the facts on record.

We also take notice of the order produced by Mr. Tiwary passed by the learned Single Judge on the contempt application arising from MJC No. 919/2018 which confirms that whatever amount was due to the appellant-respondent has been paid although quantification is being disputed by the writ petitioner who was permitted by the learned Single Judge to approach the authority concerned with a proper representation to claim the balance amount.



In such view of the matter, we are not persuaded to interfere with the judgment and order put to question before this Court.

The Letters Patent Appeal is accordingly dismissed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Archana/
Surendra/-

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