

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.558 of 2019

In

Civil Writ Jurisdiction Case No.4419 of 2013

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1. M/s Jai Hanuman Petroleum at Village- Sarai Baksh, P.O. and P.S. Bheldi through its Proprietor.
 2. Sheo Nath Rai Son of Deo Balak Rai Proprietor of the petitioner no. 1, resident of Village and P.O. Katsa, P.S. Bheldi, Distt. Saran.

... .. Appellant/s

Versus

1. Indian Oil Corporation Limited G-9, Ali Yavar Jung Marg, Bandra (East) Mumbai through its Chairman.
2. General Manager, Bihar, Indian Oil Corporation Ltd. Lok Nayak Bhawan, 5th Floor, Dak Bungalow Road, Patna.
3. The Deputy General Manager, Sales and Supply, Bihar, India Oil corporation Ltd. Lok Nayak Bhawan, 5th Floor, Dak Bungalow Road, patna.
4. Muzaffarpur Divisional Office, Indian Oil Corporation Ltd. Krishna complex, Akharaghat Road, Muzaffarpur through Senior Divisional Retail Sales Manager.
5. The Senior Divisional Retail Sales Manager Indian Oil Corporation Ltd., Muzaffarpur Divisional Office, Krishna Complex, Akharaghat Road, Muzaffarpur
6. Assistant Manager, Indian Oil Corporation Ltd. Retail Sales, Chapra.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Rajendra Narayan, Sr. Advocate
For the Respondent/s : Mr. K.D. Chatterjee, Sr. Advocate
Mr. Amlesh Kumar Varma, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 24-02-2020

Re: I.A. No. 1 of 2019

Heard learned senior counsel for the appellant and
learned counsel for the respondents.



2. The appeal is reported to be delayed by 2 years and 156 days.

3. For the reasons assigned in the application, we condone the delay in filing the appeal, for we find the appellant to have pursued the matter both before the learned Arbitrator and the Writ Court by way of a Review Petition.

4. I.A. No. 1 of 2019 stands allowed accordingly.

Re: L.P.A. No. 558 of 2019

The instant Letters Patent Appeal has been preferred against the judgment dated 28.10.2016 passed by a learned Single Judge of this Court in C.W.J.C. No. 4419 of 2013, titled as M/s Jai Hanuman Petroleum & Anr. Vs. Indian Oil Corporation Limited & Ors., whereby the writ petition stands disposed off.

2. Learned senior counsel for the appellant clarifies that the scope of the present appeal relates to the challenge made in the order dated 28.10.2016 passed in C.W.J.C. No. 4419 of 2013, titled as M/s Jai Hanuman Petroleum & Anr. Vs. Indian Oil Corporation Limited & Ors. and not the order dated 06.03.2019 passed in Civil Review No. 307 of 2018, titled as M/s Jai Hanuman Petroleum & Anr. Vs. Indian Oil Corporation Limited & Ors.



3. The impugned judgment dated 28.10.2016 passed in C.W.J.C. No. 4419 of 2013 is reproduced, in toto, as under:-

“By order dated 04.08.2016, this Court had expressed that it was not inclined to enter into the merits of the matter in view of availability of the forum of arbitration.

2. Accordingly and as jointly proposed by the parties, this Court appoints Hon’ble Mr. Justice Shyam Kishore Sharma, a retired Judge of this Court residing at 305, Kumar Shanti Enclave, Parmanand Path, Nageshwar Colony, Patna 800001 as the sole Arbitrator in respect of the dispute between the parties.

3. The petitioners must approach the learned Arbitrator within one month along with a certified copy of this judgment and the learned Arbitrator will proceed with the adjudication in accordance with the provisions of the Arbitration and Conciliation Act, 1996, as far as applicable. The fees of the learned Arbitrator shall abide by the Fourth Schedule to the said Act, which shall be borne equally by the parties.

4. The writ petition stands disposed of.”

4. The said order is in continuation of earlier order dated 04.08.2016 passed by the learned Single Judge.

5. Noticeably, appellant chose not to assail the said order, whereby the Writ Court had already expressed its disinclination in adjudicating the dispute on merits. It is only on



a subsequent date i.e. 28th of October, 2016 that the Writ Court, with the consent of the parties, referred the dispute for arbitration to the Arbitrator, whose name also stood proposed jointly by the parties.

6. As such, we see no reason to interfere with the impugned judgment.

7. The appeal is accordingly dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

P.K.P./-

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CAV DATE	
Uploading Date	26.02.2020
Transmission Date	

