

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.653 of 2019

In
Civil Writ Jurisdiction Case No.2176 of 2017

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M/s B. K. Construction through its Proprietor, Sri B. K. Pandit @ Virdhesh Kumar Pandit, aged about 49 years, gender-male, son of shri Gadu Lal Pandit, near Gas Godoen, Ward No.17,,N.H.57, Post Office Police Station-Araria, District-Araria Bihar

... .. Appellant/s

Versus

1. Power Grid Corporation of India Limited (A government of India enterprises) through the Managing Director
2. The Managind Director Power Grid Corporation of India Limited Corporate Centre, Saudamini, Plot No. 2, Sector-29, Gurgaon-122001, Haryana
3. The General Manager (D.M.S./ST) Patna
4. The A.G.M. (RE/ST) Patna
5. The Dy. Manager (Vigilance) Patna
6. The Dy. Gen. Manager Easter Region, Transmission System, Power Grid Corporation Limited, N.H. 31, Maranga Post, Lalganj, distt.- Purnea
7. The C.M. (RE) Purnea
8. The D.G.M. Project, Subhash Projects and Marketing Limited, 22, Canal Street, Block-A, 3rd Floor, Kolkata-700017
9. The Project Manager M/s SPML Infra Limited, Purnea Office, Purnea

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Rajendra Lal Das, Adv.
For the Respondent/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 18-02-2020 The appeal filed on 17.05.2019 is listed for hearing
for the first time today before the Court.

Delay, if any, stands condoned.

The instant appeal has been preferred against the



orders dated 09.02.2018 and 12.03.2018 passed by a learned Single Judge of this Court in CWJC No.2176 of 2017, titled as M/s B.K. Construction Vs. Power Grid Corporation of India Limited & Ors.

The impugned judgment dated 09.02.2018 is reproduced in toto as under:

“Heard learned counsel for the petitioner as well as learned counsel for the respondents.

2. The present writ petition has been filed for payment of admitted dues of about Rs.50,00,000/- pursuant to the tender agreement.

3. At the very outset, this Court takes note that the petitioner is a sub-contractor of the private respondent nos.8 and 9, the latter having entered into the agreement with the Power Grid Corporation of India Limited (respondent no.1) and there is no privity of contract between the petitioner and respondent nos.8 and 9.

4. In that view of the matter, the relief sought by the petitioner is against the private respondent nos.8 and 9 and not against the State and as such, the present writ petition cannot be maintained. The writ petition is accordingly dismissed.

5. Needless to say, the petitioner is always at liberty to seek recourse to any remedy



as may be available to it in accordance with law.”

The impugned order dated 12.03.2018 is reproduced in toto as under:

“Learned counsel for the respondent nos.1 and 2 points out that in the last line of paragraph 3 of the judgment dated 09.02.2018, “respondent nos.1 to 6”.

2. Let the judgment dated 09.02.2018 be treated to be modified only to the above extent and the reference to “respondent no.8 and 9” in the last line of paragraph 3 of the judgment shall be read as reference to “respondent nos.1 to 6”.

Undisputedly, there is no privity of contract between the petitioner/appellant herein and anyone of the respondents no.1 to 7 namely Power Grid Corporation of India Limited (Respondent no.1), The Managing Director, Power Grid Corporation of India Limited (Respondent no.2), The General Manager (D.M.S./ST) (Respondent no.3), The A.G.M. (RE/ST) (Respondent no.4), The Dy. Manager (Vigilance) (Respondent no.5), The Dy. Gen. Manager, Eastern Region, Transmission System, Power Grid Corporation Limited (Respondent no.6), The C.M. (RE)/Purnea (Respondent no.7), The D.G.M. Project, Subhash Projects and Marketing Limited (Respondent no.8) and The Project Manager, M/s SPML Infra Limited (Respondent



no.9). The contract being of private nature is particularly between two private entities i.e. writ petitioner and respondent nos. 8 and 9 namely The D.G.M. Project, Subhash Projects and Marketing Limited and The Project Manager, M/s SPML Infra Limited. As such, learned Single Judge rightly dismissed the writ petition.

We do not find any illegality therein.

At this stage, learned counsel for the writ petitioner/appellant states that petitioner/appellant herein be permitted to take recourse to such remedies as are available in accordance with law, including filing of civil suit.

Recovery of the amount is the petitioner's right and we need not grant any liberty in that regard.

Be that as it may, we clarify that the period for which the petitioner is pursuing the writ petition before this Court shall be excluded for the purpose of limitation.

The appeal stands disposed of in the aforesaid terms.

(Sanjay Karol, CJ)

(S. Kumar, J)

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