

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1107 of 2019

In
Civil Writ Jurisdiction Case No.12003 of 2018

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Dharambir Kumar Singh Son of Sri Vidaya Bhushan Singh, resident of Gulni,
P.S.- Shambhuganj, District- Banka, Proprietor of M/S Adishakti Mini Rice
Mill, Banka.

... .. Appellant

Versus

1. The State of Bihar through Principal Secretary, food and Civil Supply, Patna.
2. The District Magistrate, Banka.
3. The Superintendent of Police, Banka.
4. The Certificate Officer, Banka.
5. The District Manager, Bihar State Food and Civil Supply Corporation,
Banka.

... .. Respondents

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Appearance :

For the Appellant/s	:	Mr.Shashi Bhushan Kumar, Advocate
For the State	:	Mr.S.Raza Ahmad, AAG-5
		Mr.Alok Ranjan, AC to AAG-5
For the BSFC	:	Mr.Shailendra Kumar Singh, Advocate

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

(Per: HONOURABLE THE CHIEF JUSTICE)

3 03-03-2020 The appeal filed on 6.11.2019 is listed for hearing for
the first time today before the Court.

The impugned order dated 08.07.2019 passed in
C.W.J.C. No. 12003 of 2018 (Dharambir Kumar Singh vs. The
State of Bihar and Ors.) reads as under :-

“After hearing learned counsel for the petitioner
and learned counsel representing the Bihar State
Food & Civil Supplies Corporation as also
learned counsel for the State, it appears to be an
admitted position in the present case that in



terms of the agreement between the petitioner and the Corporation the dispute between the parties have been referred to an arbitral tribunal. It is stated at the bar that Mr. A.K. Jain, a retired District Judge is presently acting as the sole Arbitrator, yesterday was the date fixed in the matter and now it is fixed for 27th July, 2019 to enable the parties to file their respective statements of claim and defence/counter claim, as the case may be.

Learned counsel for the petitioner submits that in the judgment of the learned coordinate Bench of this court in CWJC No. 9133/2014 which has been affirmed by the Hon'ble Division Bench in LPA No. 1709/2014, the Corporation had assured that they will not take any further coercive action against the petitioner beyond what has already been taken against him in terms of the agreement. Learned counsel for the Corporation submits that the Corporation will follow the judgment of Hon'ble Division Bench. Learned counsel for the petitioner further submits that the judgment of the Hon'ble Division Bench in LPA No. 1709/2014 and other analogous matters were subject matter of review in Civil Review No. 150/2015 where the Hon'ble Division Bench has been pleased to declare as follows: -

"Having considered the matter, the only observation we can make, is that the liability in the certificate proceedings would be dependent upon the outcome of arbitration case, which is said to be pending before the Collector, Jamui. We would only request the Collector-cum-District Magistrate, Jamui to enquire into the matter and if it is found that the review petitioner had filed an application for arbitration in terms of Clause 16 of the agreement, as between the petitioner and the Corporation, he would dispose of the same within two months after hearing the parties. Consequently, the certificate proceedings would, accordingly, stand amended."

The parties hereto also agree that the present certificate proceeding initiated against the petitioner would be liable to be amended upon the outcome of the arbitration proceeding. This court would request the learned Arbitrator to decide the reference made to him within a period of three months from today.



Learned counsel for the State as well as the Corporation have deposited the cost.
The writ application stands disposed of accordingly.”

We notice that the order is passed on the basis of consent accorded by both the parties to the lis. Finding the Court not in favour of the submissions made across the bar, learned counsel for the appellant submits that appellant be permitted to withdraw the present appeal reserving liberty to file an appropriate application seeking review of the impugned order.

Permission is granted.

The appeal is disposed of as withdraw with the liberty aforesaid.

The period for which the appellant has been pursuing the present appeal shall not be counted for the purposes of limitation.

We clarify that we have not dealt with the issue on merits.

(Sanjay Karol, CJ)

(S. Kumar, J)

ved/-

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