

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2946 of 2019

In
REQUEST CASE No.94 of 2017

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M/s Prasad Construction and Co. a partnership firm having office at Leela Mohan Niwas, Mohalla- Nai Sarai, P.O.- Bihar Sharif, District- Nalanda, through authorized signatory Sri Arun Kumar, son of Kashi Lal residing at Leela Mohan Niwas, Mohalla- Nai Sarai, P.O.- Bihar Sharif, District- Nalanda.

... .. Petitioner/s

Versus

1. The General Manager, East Central Railway Hajipur, At and P.O. Hajipur, District- Vaishali.
2. The Deputy Chief Engineer, (Con), East Central Railway, Danapur, District- Patna.
3. The F A and CAO, E.C. Railway, At- Mahendrughat, P.O. and District- Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Kumar, Advocate
For the Opposite Party/s : Mr. Ramadhar Shekhar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

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(The proceedings of the Court are being conducted by Hon'ble the Chief Justice through Video Conferencing from his residential office/residence. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

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Date : 15-09-2021

This application has been filed seeking modification of order dated 20.09.2017, passed in Request Case No. 94 of 2017, titled as M/s Prasad Construction & Co. Vs. The Union of India & Anr., under Section 11(6) of the Arbitration and Conciliation Act, 1996, by appointment of a sole



substituted Arbitrator due to sad and sudden demise of Hon'ble Mr. Justice Binod Kumar Roy, former Chief Justice, in order to complete the arbitral proceedings.

Vide judgment dated 20th of September, 2017, passed in Request Case No. 94 of 2017, titled as M/s Prasad Construction & Co. Vs. The General Manager, E.C. Railway & Ors. and Request Case No. 95 of 2017, titled as M/s Prasad Construction & Co. Vs. The Union of India & Anr., Hon'ble Mr. Justice Binod Kumar Roy, former Chief Justice, was appointed as an Arbitrator to adjudicate the disputes inter se the parties.

It is a matter of record that Hon'ble Mr. Justice Binod Kumar Roy has since expired and proceedings could not be completed prior to his death.

Vide order dated 20th of September, 2019, passed in M.J.C. No. 2930 of 2019, titled as M/s Prasad Construction & Co. Vs. The General Manager, East Central Railway Hajipur & Ors., arising out of Request Case No. 95 of 2017, Hon'ble Mr. Justice Jyoti Saran (former Judge of this Court) has been appointed as an Arbitrator to adjudicate the dispute inter se the parties.

As such, the parties desire that in Request Case No. 94 of 2017, Hon'ble Mr. Justice Jyoti Saran (former Judge of



this Court), who is already seized with the arbitration with respect to the very same parties, be also appointed as an Arbitrator to adjudicate the disputes inter se the parties as the issues are almost similar.

As such, name of Hon'ble Mr. Justice Binod Kumar Roy, former Chief Justice (since expired) is substituted with that of Hon'ble Mr. Justice Jyoti Saran (former Judge of this Court) in Request Case No.94 of 2017.

Registry is directed to remit the records to the learned Arbitrator immediately along with a copy of this order.

Learned Arbitrator shall be entitled to fee as per the schedule.

Parties undertake to fully cooperate and not take any unnecessary adjournment.

The proceedings, during the time of current Pandemic- Covid-19 shall be conducted through digital mode, unless the parties otherwise mutually agree to meet in person i.e. physical mode.

It is expected of the learned Arbitrator to decide the issues expeditiously.

Learned counsel for the parties also undertake to communicate the order to the learned Arbitrator. In fact, they



volunteered to appear before him, through digital mode on 6th of October, 2021 and apprise him of the passing of the order.

The instant petition stands disposed of in the above terms.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

PKP/Amrendra

AFR/NAFR	
CAV DATE	
Uploading Date	22.09.2021
Transmission Date	

