

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1765 of 2018

In
Civil Writ Jurisdiction Case No.7344 of 2015

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Hariharpur West Primary Agriculture Credit Society office at Village and P.O.- Kanour, P.S. Kamtaul, District- Darbhanga through its Chairman Md. Furkan Akhtar, S/o Late Haji Md. Muslim, R/o Village and P.O.- Kanour, P.S.- Kamtaul, District- Darbhanga.

... .. Appellant/s

Versus

1. The State Of Bihar through Principal Secretary, Food and Consumer Protection Department, State of Bihar, Patna.
2. The Principal Secretary, Department of Co-operative, State of Bihar, Patna.
3. The District Collector, District-Darbhangha.
4. The Managing Director, Bihar State Civil Supplies Corporation, Patna.
5. The Sub-Divisional Officer, Sadar, District-Darbhangha.
6. District Co-operative Officer, Darbhanga.
7. The District Manager, Bihar State Civil Supplies Corporation, Darbhanga.
8. The Circle Officer, Block-Singhwara, District- Darbhanga.
9. The Branch Manager, Bihar State Cooperative Bank Limited, Darbhanga.
10. The Executive Assistant, Paddy Purchase Counter, Block- Singhwara, District- Darbhanga.

... .. Respondent/s

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with

Letters Patent Appeal No. 1767 of 2018

In
Civil Writ Jurisdiction Case No.8026 of 2015

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Bharathi Primary Agriculture Credit Society Office at Village and P.O.- Bharathi, P.S.- Simari, District- Darbhanga through its Chairman Murari Prasad Singh, Son of Late Dharendra Narayan Singh, Resident of Village and P.O.- Bharathi, P.S.- Simari, District- Darbhanga.

... .. Appellant/s

Versus

1. The State Of Bihar, through Principal Secretary, Food and Consumer Protection Department, State of Bihar, Patna.
2. The Principal Secretary, Department of Co-operative, State of Bihar, Patna.
3. The District Collector, District-Darbhangha.
4. The Managing Director, Bihar State Civil Supplies Corporation, Patna.
5. The Sub- Divisional Officer, Sadar, District- Darbhanga.



6. The District Co- operative Officer, Darbhanga.
7. The District Manager, Bihar State Civil Supplies Corporation, Darbhanga.
8. The Circle Officer, Block- Singhwara, District- Darbhanga.
9. The Branch Manager, Bihar State Cooperative Bank Limited, Darbhanga.
10. The Executive Assistant, Paddy purchase Counter, Block- Singhwara, District- Darbhanga.

... .. Respondent/s

Appearance :

(In Letters Patent Appeal No. 1765 of 2018)

For the Appellant/s : Mr.Manish Kumar No. 2, Advocate
Mr. Avinash Kumar Singh, Advocate
For the Respondent/s : Mr.S.Raza Ahmad, Sr. Advocate AAG-5
Mr. Vishwambhar Prasad, AC to AAG-5
Mr. Alok Ranjan, AC to AAG-5

(In Letters Patent Appeal No. 1767 of 2018)

For the Appellant/s : Mr. Gajendra Kumar Singh
For the Respondent/s : Mr.S.Raza Ahmad, Sr. Advocate AAG-5
Mr. Vishwambhar Prasad, AC to AAG-5
Mr. Alok Ranjan, AC to AAG-5

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 27-06-2022

1. Both the appeals have been heard together and are being disposed of with this common order.

2. Heard Mr. Avinash Kumar Singh, learned Advocate for the appellants and Mr. Vishwambhar Prasad, learned AC to AAG-5.

3. The appellants, the respective Cooperative Societies, had purchased paddy from the farmers in the Kharif Season of 2013-14 and had supplied the same to the State Food



Corporation, for which both the Cooperative Societies were not restituted.

4. The contention of the Corporation, however, before the learned Single Judge was that the documents brought on record by the appellants with respect to stock issue order and the supply of the foodgrains was false and fabricated and that such supply was never made. Under such circumstances, it was contended by the SFC that the prayer made on behalf of the appellants/Co-operative societies for a direction to the respondent to pay the amount of paddy to the two Co-operative Societies be not acceded to.

5. The learned Single Judge, holding the demand of the appellants to be a money claim, refused to entertain the writ petitions. It was categorically held by the learned Single Judge that the petitions under Article 226 of the Constitution of India cannot be maintained to enforce a money claim arising out of a breach of contract or money due to any claimant. The advisory of the learned Single Judge to the appellants was to approach the Civil Courts for the needful, if so deemed necessary.



6. We are in agreement with the end result of the cases but so far as the question of law has been enunciated, we deem it our duty to state the law as it stands today.

7. Article 226 of the Constitution of India gives a discretionary power to the Courts to decide such issues but restraint in exercising of such power are more or less self-imposed. As a matter of fact, a Court of Law while passing an order under Article 226 can decide a money claim or any issue arising out of breach of contract but for any Court to consider such claim, it has to be circumspect and only in appropriate cases and in extraordinary circumstances can such exercise be undertaken. In a case where there is no necessity of going through elaborate evidence in support of the claim or in opposition to it, the Court would not be correct in rejecting such petition in limine. In *Smt. Gunwant Kaur & Ors. Versus Municipal Committee, Bhatinda* [(1969) 3 SCC 247] and *ABL International Ltd. & Ors. Versus Export Credit Guarantee Corporation of India Ltd. & Ors.* [(2004) 3 SCC 553], the Supreme Court has clearly stated that rejection of writ petitions in limine specially when it pertains to a decision making regarding breach of contract or any money claim is not



justified. Unless it is found that the dispute is frivolous or it is difficult to decide on the present set of evidence, can then only a Court would be justified in asking the parties to agitate the appropriate forum for the needful.

8. The reason behind such decision is that the power under Article 226 is plenary which is not limited or circumscribed by any circumstance.

9. Similar views have been expressed by the Supreme Court in *Century Spinning and Manufacturing Company Ltd and Anr. Versus Ulhasnagar Municipal Council [1970 (3) SCR 854]* and *Whirlpool Corporation Versus Registrar of Trade Marks, Mumbai and Ors. [AIR 199 SC22]*. The law as has been summarized in *Century Spinning (supra)* is:

(a) In an appropriate case, a writ petition against the instrumentalities of the State arising out of a contractual obligation is maintainable (b) Merely because some disputed question of facts arise for consideration, the same cannot be a ground to refuse to entertain a writ petition in all cases as a matter of Rule (c) A writ petition involving a consequential relief of monetary claim is also maintainable.



10. However, the Court has to be circumspect and has to keep in mind the nature of relief. The right to have such cases decided is not exclusively to the exclusion of other available remedies unless the action is absolutely arbitrary or unreasonable so as to violate the constitutional mandate of Article 14 or for any other valid and legitimate reasons and under circumstances in which a Court would consider it necessary to exercise such jurisdiction.

11. In the present set of facts, the learned Single Judge was absolutely justified in not entertaining the claim of the appellants for the reason that the only basis for such claim was rested on the stock issue orders of the corporation which, in fact, was denied by the corporation and after verification of records, the corporation, in its affidavit, had informed this Court that such documents were forged. As such, to decide such claim would require evidence to be garnered with respect to the genuineness of the stock issue orders or that such stock issue orders were issued by the competent authority and pursuant to such order, necessary supply was made.



12. In the absence of any such evidence on record, in the first instance, the learned Single Judge was absolutely justified in directing the petitioners to approach the appropriate authority, perhaps the Civil Courts for redressal of his grievance.

13. We do not find any fault with the orders passed by the learned Single Judge.

14. For the reasons afore-stated, we find no merits in both the appeals.

15. Both the appeals are dismissed but without any order as to costs.

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

skm/-

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