

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8627 of 2021

1. The Union of India through the General Manager, East Central Railway, Hajipur (Vaishali).
2. The Senior Divisional Engineer-III, East Central Railway, Sonapur, District-Saran.
3. The Divisional Engineer-III, East Central Railway, Sonapur, District- Saran.

... .. Petitioner/s

Versus

M/s Eleco Construction Private Limited having its registered office at Sri Krishna Nagar, Post Office and Police Station and District- Begusarai through its Director Rabindra Kumar Choudhary residing at Sri Krishna Nagar, Post Office and Police Station and District- Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Anil Singh, Advocate

For the Respondent/s : Mr. Nand Kishore Singh, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

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

Date : 09-02-2022

Petitioners have prayed for the following relief(s):-

“For setting aside order dated 30.09.2019 passed by Shri Rudra Prakash Mishra, District Judge, Patna in Miscellaneous (Arbitration) Case No. 127 of 2017, as contained in AnnexureP/3, by which objection petition under Section 42 of the Arbitration and Conciliation Act, 1986 filed on behalf of opposite party M/s Eleco Construction Pvt. Ltd. Has been allowed and the Miscellaneous (Arbitration) Case No. 127 of 2017 filed



under Section 34 of the Arbitration and Conciliation Act, 1986 on behalf of Union of India and its authorities for setting aside Award dated 18.03.2017 in Arbitral proceedings passed by Sri G.s.Tiwari, the sole Arbitrator in connection with Request Case No. 18/2015 has been dismissed as not maintainable with observation that the same is to be filed in the court of Saran at Chapra where Miscellaneous Arbitration Case No. 01 of 2017 filed under Section 34 of the Arbitration and Conciliation Act, 1986 was already filed first in a Principal Civil Court of original jurisdiction.”

After the matter was heard for some time, more so, on the issue of maintainability of the present petition in the light of the decision rendered by Hon’ble the Supreme Court in **Deep Industries Limited v. Oil and Natural Gas Corporation Limited and Anr.; (2020) 15 SCC 706** as also **Bhaven Construction v. Sardar Sarovar Narmada Nigam Ltd.; (2022) 1 SCC 75** and the objection raised by the respondents with regard to maintainability of the present petition in the light of the provisions of Section 13 of the Commercial Courts Act, 2015 and Section 37 of the Arbitration and Conciliation Act, 1996, learned counsel for the petitioners seeks permission to withdraw the present petition reserving liberty to take recourse to such remedies as are otherwise admissible and permissible in law.

Liberty, as prayed for, is granted.



Needless to add the period for which the petitioners have been pursuing the remedies before the appropriate forum, shall be excluded for the purpose of limitation.

The instant petition stands disposed of.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	12.02.2022
Transmission Date	

