

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.271 of 2016

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Birendra Kumar Mishra, Son of Late Jai Krishna Mishra, Resident of
Mohalla- Shivpuri, P.S.- Shastri Nagar, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Secretary, Building Construction Department, Government of Bihar, Nirman Bhawan, Bailey Road, Patna.
2. The Chief Engineer (South Bihar) Building Construction Department, Government of Bihar, Nirman Bhawan, Bailey Road, Patna.
3. The Superintending Engineer, Building Construction Department, South Bihar Circle, Punaichak, Patna.
4. The Executive Engineer, Building Construction Division, Gardanibagah Building Division, Behind Officers Flats, Bailey Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Uma Shankar Tiwary, Advocate
For the Respondent/s : Mr. Raj Ballav Prasad Yadav, AAG 11

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CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT

Date : 23-12-2022

Heard learned counsel for the parties.

2. This Civil Revision application under Section 13 of the Bihar Public Works Contracts Disputes Arbitration Tribunal Act, 2008 (hereinafter referred to as “the Act”) has been filed to set aside in part the award dated 31.08.2016 passed in Reference Case No. 48 of 2016 passed by the Bihar Public Works Contract Disputes Arbitration Tribunal (in short “the Tribunal”) at Patna.

3. The brief facts of this case are that the petitioner entered into an agreement No. 295 F2 of 2014-2015 dated 21.11.2014 for the execution of the work, namely, “Repair to



Quarter No. A/2, Road No. 06 at Gardanibagh, Patna for the year 2014-2015". The agreement value of the work was Rs. 3,48,771/- and time of completion was one month. Due to dispute arises between the parties with respect to non-payment to the petitioner for the work done reference petition bearing no. 48 of 2016 filed by the petitioner before the Tribunal and the Tribunal passed the impugned award on 31.08.2016.

4. The Tribunal in its impugned award held that the dues of petitioner amounting Rs. 1,74,385/-only is admitted, hence, the petitioner is entitled for the payment of the said dues. On the point of interest the petitioner has claimed the interest on dues amount from the date of cause of action, but the Tribunal held that the interest should be paid from the date of filing i.e. 22.04.2016 simple interest at the rate of 10% per annum on awarded amount till realization if not paid. The petitioner aggrieved on the point of interest i.e. rate and period awarded in award preferred this Revision application.

5. Learned counsel for the petitioner has submitted that the Tribunal has wrongly declined to award the pre-reference interest i.e. from the date of cause of action arises to the petitioner for payment of dues amount till the filing of the reference case. He has further submitted that the petitioner is



entitled to award of 18% interest as envisaged under Section 31 (7) (a) (b) of the Arbitration and Conciliation Act, 1996 but the Tribunal has awarded interest only at the rate of 10% per annum.

6. Learned counsel for the respondents has supported the impugned award and submitted that there is no illegality in the impugned award and the award is well reasoned.

7. Learned counsel for the petitioner has submitted that this Revision application may be disposed of in terms of the Judgment and order passed by coordinate Bench of this Court on 24.04.2017 in C.R. No. 180/2016 wherein also the identical issue arose for consideration and determination. He has further submitted that vide Judgment dated 18.07.2017 passed in Civil Revision No. 213 of 2016, on similar issue the matter was remitted back to Arbitral Tribunal for deciding afresh on the issue pertaining to interest.

8. Learned counsel for the opposite parties also agreed for disposal of this revision application by passing an order in similar line with the order dated 24.04.2017 passed in C.R. No. 180/2016.

9. In the said Judgment/order dated 24.04.2017 the Court considered the relevant provisions and the Judgments of



Hon'ble Supreme Court on the point and the matter was remanded back to the Arbitral Tribunal for decision afresh in accordance with law.

10. In the present Civil Revision application the notes of discord between the parties, as mentioned above, pertains to the refusal by the learned Tribunal to pay the interest for the pre-reference period and the award of interest pendente lite at the rate less than 18% per annum. The entitlement of a person to interest, in case of money which is legally due has been recognized by the Constitution Bench in **Secretary, Irrigation Department vs. G.C. Roy, (1992) 1 SCC 508**.

11. In view of the submission on behalf of the parties, the present Revision application is allowed in terms of the order dated 24.04.2017 passed in C.R. No. 180 of 2016 and the impugned award is quashed, only so far as the same relates to the issue of rate of interest and the period for which the petitioner may be entitled to interest in accordance with law. The matter is remitted back to the Arbitral Tribunal for decision afresh on the aforesaid issues pertaining to interest in accordance with law after granting opportunities to the parties for fresh hearing. It is also clarified that any observation(s) made in the Judgment/order dated 24.04.2017 in C.R. No.



180/2016 shall not prejudice the case of either of the parties which shall be decided on its own merits in accordance with law.

(Sunil Dutta Mishra, J)

khushbu/-

AFR/NAFR	NAFR
CAV DATE	21.09.2022
Uploading Date	01.02.2023
Transmission Date	

