

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1452 of 2018

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1. Sri Shankar Prasad Bhimsaria and Anr Son of Late Ramdeo Bhimsaria, Resident of A-502 and 503, 4th Floor, Arjuna J.K. Towers, Chhajjubag, P.O. Gandhi Maidan, P.S.- Gandhi Maidan, District- Patna.
 2. Faheem Ahmed, Son of Naseem Ahmed, Resident of B9-12, Abu Fakhruddin Plaza, Mohalla of Langertoli, P.O.- Bankipore, P.S.- Pirbahore, District- Patna- 800004.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development Depart, Government of Bihar, Patna
2. The Principal Secretary, Law Department, Government of Bihar, Patna.
3. The District Magistrate, Patna.
4. The Sub Divisional Officer, Patna Sadar, Patna.
5. M/s Arjuna Constructions Private Limited, having its registered office at Arjuna Towers Ground Floor
6. Arvind Kumar, Son of Shri Jagdish Thakur, Resident of Arjuna Towers, Ground Floor, Shivpuri, Near Mamta Apartment, Boring Road, P.S.- Shastrinagar, Town and District Patna, Managing Director of M/s Arjuna Constructions Private Limited.
7. Sharat Kumar, Son of Late Jai Kishore Prasad, Resident of 44, M.I.G., Kankarbagh Colony, P.S.- Kankarbagh, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Suraj Samdarshi, Advocate Mr. Rajan Prakash, Advocate Mr. Vijay Shankar Tiwari, Advocate
For the Respondent/s	:	Mr. Abbas Haider, SC-6

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 23-01-2023 Petitioners have prayed for the following relief(s):-



- (i) For issuance of a Writ of Certiorari for quashing the order dated 3.1.2018 passed by the learned District Judge, Patna in Miscellaneous Case No. 20 of 2017, whereby and whereunder the application filed by the petitioners under Section 34 of the Arbitration & Conciliation Act, 1996 for setting aside the award dated 10.9.2011 (arising out of Request Case No. 83 of 2007) has been dismissed on the ground that the same cannot be entertained as the petitioners were not a party in the arbitration case, without considering the fact that the petitioners who were necessary party were not impleaded and are under the threat of eviction in pursuance of implementation of the award.
- (ii) For issuance of a Writ of Mandamus directing the respondent authorities not to take any coercive step against the petitioners, such as, eviction for execution of the award in Execution Case No. 206 of 2016 (for execution of the award dated 10.9.2011 passed in Request Case No. 83 of 2007).
- (iii) For a declaration that the petitioners neither being party to the arbitration proceeding, nor the execution proceeding, cannot be subjected to eviction, in furtherance of implementation of the award dated 10.9.2011 in Request Case No. 83 of 2007 under Execution Case No. 206 of 2016.
- (iv) For a declaration that the petitioners having come into possession of the property before commencement of the arbitration proceeding, were necessary party to the arbitration proceeding, and their non-impleadment has rendered the award as null and void.



- (v) For a declaration that rejection of the application filed by the petitioners, challenging the award under Section 34 of the Arbitration & Conciliation Act, 1996, on the ground that they were not party to the arbitration proceeding, is blatantly illegal as the petitioners are necessary and proper party which has been overlooked by the Arbitrator, which should have been interfered under Section 34 of the Arbitration & Conciliation Act, 1996; and for any other relief or reliefs to which the petitioners are found entitled.

Learned counsel for the petitioners seeks permission to withdraw the present petition, for the same having rendered infructuous.

Permission granted.

The instant petition stands disposed of as withdrawn.

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

(Sanjay Karol, CJ)

(Partha Sarthy, J)

P.K.P./Amrendra

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