

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.363 of 2019

In

Miscellaneous Jurisdiction Case No.1479 of 2017

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Arun Kumar, Son of Sri Birendra Prasad, Resident of Saket Bhawan, Road
No. 13-C, Rajendra Nagar, P.S.- Kadam Kuan, District- Patna.

... .. Appellant/s

Versus

1. Magadh University, through the Registrar, Magadh University, Bodh Gaya.
2. The Principal, S.M.D. College, Sripalpur, Punpun, Patna.
3. Sri Ram Raj Singh, (the name of the father not known to the petitioner), Ex-Principal, S.M.D. College, Sripalpur, Punpun, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Shivendra Kishore, Sr. Adv. Mr. Priyank Deepak, Adv. Mr. Vasant Vikash, Adv.
For the Respondent/s	:	Mr. Alok Kumar Rahi, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 20-02-2023

Heard the learned counsel for the parties.

The writ petition preferred by the petitioner vide
C.W.J.C. No. 9021 of 2011, seeking a direction to the
respondents to make good the balance payment of Rs.
2,27,655/- was dismissed for non prosecution.

The restoration application vide M.J.C. No. 1479 of
2017 also stood dismissed vide order dated 20.06.2018.



This order (20.06.2018) is under challenge.

Mr. Shivendra Kishore, the learned senior advocate has argued that on all occasions, the only ground taken by the Court is the non appearance of the counsel.

We wonder whether this could be a ground for entertaining the Letters Patent Appeal against the order dismissing the restoration application in default.

Nonetheless, in order to do complete justice, we have also gone through the main prayer of the appellant in the writ petition.

An agreement was entered into between the respondent University and the writ petitioner sometimes in the year 2002 for construction of classrooms.

According to the appellant, the work was completed to a large extent for which some money was paid to him but approximately, an amount of Rs. 2,27,655/- remained outstanding, which has yet not been paid.

It is the contention of the appellant that for the payment of the aforesaid amount, the appellant had been knocking the doors of the concerned respondent but no avail.



However, we also find that the agreement with the petitioner was rescinded for which also the appellant has an explanation, namely, his having fallen ill.

Be that as it may, considering the staleness of the claim, we are not inclined to enter into the merits of the case and finding no reason to interfere with the order dated 20.06.2018 by which the M.J.C. Case No. 1479 of 2017 preferred by the appellant was dismissed for non prosecution, we dismiss this appeal as well.

However, it would be open for the appellant to approach the concerned authorities for the needful, if so desired.

(Ashutosh Kumar, J)

shivank/sunil-

(Harish Kumar, J)

AFR/NAFR	NAFR
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