

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.360 of 2023

Winsome International Limited a company incorporated under Indian Companies Act 1956 having its registered office at 5th Floor, 16A Brabourn Road, Kolkata 700001 through its authorized signatory Kumar Rajesh, Aged About 53 years, S/O-Late Suresh Chandra Prasad, C/O-Suresh Chandra Prasad, Sripalpur, P.O.- Punpun, P.S. Punpun, Patna- 804453

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
3. The Bihar State Food and Civil Supplies Corporation Limited, through its Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Khadya Bhawan, Daroga Rai Path, R Block Road No. 2, Patna 800001.
4. Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Khadya Bhawan, Daroga Rai Path, R Block Road No. 2, Patna 800001.
5. The Chief Procurement Officer, Bihar State Food and Civil Supplies Corporation Limited, Khadya Bhawan, Daroga Rai Path, R Block Road No. 2, Patna 800001.
6. The Nodal Officer, Bihar State Food and Civil Supplies Corporation Limited, Khadya Bhawan, Daroga Rai Path, R Block Road No. 2, Patna 800001.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. S.D. Sanjay, Sr. Advocate Mr. Siddhartha Prasad, Advocate Mr. Kaustubh, Advocate Mr. Lokesh Kumar, Advocate Mr. Rahul Kumar, Advocate
For the BSFC	:	Mr. Shailendra Kumar, Advocate
For the State	:	Mr. Maruth Nath, AC to SC-4

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 19-07-2023 Heard learned senior counsel appearing on behalf of

the petitioner and learned counsel appearing on behalf of Bihar

State Food and Civil Supplies Corporation.

02. The instant Civil Misc. petition has been filed on



behalf of petitioner seeking following relief(s):-

“a) For issuance of appropriate writ(s)/order(s)/ direction(s) commanding the Learned District and Session Judge Patna to finalize Execution Case No. 305/2020 at earliest which is pending since long in spite of order dated 02.09.2021 passed by this Hon'ble Court in Civil Miscellaneous Case No. 295/2021 and further the respondent Bihar State Food and Civil Supplies Corporation Limited may be directed for payment of interest amounting to Rs. 143387064/- on the admitted amount of Rs. 6,29,38,985/- which has already been paid by the respondent corporation to the petitioner during the execution case bearing Execution Case No. 305 of 2020 pending before the court of learned District and Sessions Judge, Patna.

b) To pass such other order(s)/direction(s) for which the petitioner is entitled to in the facts and circumstances of the instant case.”

03. Learned senior counsel for the petitioner submits that the petitioner had entered into two agreements with the respondent no. 3 pursuant to the tender floated by respondent no.3 for supply of new gunny bags for the KMS year 2014-15 and 2015-16. But for the KMS year 2016-17, though the petitioner was declared L-1, the petitioner was not given the contract and respondent-Corporation blacklisted the petitioner-Company for three years and withholding the payments with respect to tenders for the KMS year 2014-15 and 2015-16. Even



the earnest money of Rs. 50,00,000/- (fifty lacs) deposited for KMS year 2016-17 has not been refunded by the respondent-Corporation. The petitioner was, thus, constrained to approach this Hon'ble Court, challenging the action of the respondent-Corporation by filing CWJC No. 19635 of 2018. A Co-ordinate Bench of this Court directed the parties to take recourse of the clause in the agreement which provided for resolution of dispute through arbitration and both the parties agreed for appointment of arbitrator to decide the dispute, which has been raised in the writ petition. Thereafter, the Co-ordinate Bench, vide order dated 04.12.2018, appointed Hon'ble Mr. Justice Navaniti Prasad Singh (Retired), Ex-Chief Justice of Kerala High Court, as sole arbitrator with consent of the parties. The arbitral proceedings concluded on 02.11.2019 resulting in award of Rs. 21,39,14,105/- (twenty one crore thirty nine lacs fourteen thousand one hundred and five) was passed in favour of the petitioner-Company. The petitioner requested the respondent-Corporation for paying the arbitral award on numerous occasions and when the respondent did not taken any action, then the petitioner was compelled to file execution case for enforcement of the arbitral award vide Execution Case No. 305 of 2020 before the learned District and Sessions Judge, Patna.



However, the respondent-Corporation adopted delaying tactics before the learned court below and as the learned court below did not decide the matter for more than a year, the petitioner filed Civil Misc. Case No. 295 of 2021 before this Court seeking directions for expeditious disposal of Execution Case No. 305 of 2020. After hearing the parties, a Co-ordinate Bench of this Court, vide order dated 02.09.2021, directed the learned District and Sessions Judge, Patna, to ensure the disposal of the said execution case within a period of six months of receipt/production of copy of the said order. Learned senior counsel further submits that, thereafter, during the pendency of the execution case before the learned District and Sessions Judge, Patna, respondent-Corporation paid Rs. 6,29,38,985/- to the petitioner, the amount which was admitted to be payable by the respondent-Corporation. Learned senior counsel further submits that though the petitioner appeared on each and every date in the Execution Case No. 305 of 2020, but due to callous and delaying attitude of the respondent-Corporation, the execution of the award could not be possible, despite specific direction of a Co-ordinate Bench of this Court vide order dated 02.09.2021 passed in Civil Misc. No. 295 of 2021. Learned senior counsel further submits that, meanwhile, the respondent-



Corporation filed Misc. Case under Section 34(2) and (iv and v) of the Arbitration and Conciliation Act, 1996 bearing Misc. Case No. 337 of 2019 for setting aside the arbitral award dated 02.11.2019. Learned senior counsel further submits that, during the hearing of the Execution Case No. 305 of 2020, the respondent-Corporation appeared for the first time on 26.03.2022 and prayed to dispose of Misc. Arbitration Case No. 337 of 2019. Learned senior counsel further submits that the pleading in the Execution Case No. 305 of 2020 are complete and the matter was heard at length by the learned District and Sessions Judge, Patna. Both the parties completed their arguments and both the parties also filed their written submission before the learned court below. But, despite specific direction of the Co-ordinate Bench of this Court to conclude the execution case within six months, due to intransigent approach of the respondent-Corporation, the matter could not be disposed of and the time period of six months elapsed on 22.04.2022. Learned senior counsel further submits that in this manner, the matter has been kept pending and hence, it is imperative that the respondent-Corporation be directed to make payment of the interest on admitted amount of Rs. 6,29,38,985/-, which has been paid by the respondent-Corporation to the petitioner which



comes to Rs. 14,33,87,064/- till the disposal of the execution proceedings. The learned senior counsel thus submits that the learned District and Sessions Judge, Patna, may be directed to ensure the disposal of the execution case at the earliest and the respondent-Corporation be directed to make payment of interest amount of Rs. 14,33,87,064/- to the petitioner-Company during the pendency of the execution case.

04. On the other hand, learned counsel appearing on behalf of respondent-Corporation opposes the submission made on behalf of the petitioner. Learned counsel submits that there is no delay on part of the respondent-Corporation and the respondents also want an early disposal of the execution case. Learned counsel further submits that the petitioner has no right to claim interest on the amount paid by the respondent-Corporation to the petitioner. The respondent-Corporation has challenged the arbitral award by filing Misc. Case No. 337 of 2019 before the learned District and Sessions Judge, Patna, who passed order(s) for hearing the said Misc. Case along with Execution Case No. 305 of 2020. Learned counsel further submits that written argument in the proceedings have been submitted before the learned District and Sessions Judge, Patna and only judgment is to be passed.



05. At this stage, after some deliberation, the learned counsels for the parties have consented for disposal of the instant Civil Misc. Jurisdiction Case, if the learned District and Sessions Judge, Patna, is directed to expedite the hearing in the matter pending before him i.e. Execution Case No. 305 of 2020 and they have mutually agreed that they would confine their submission within the ambit of the written arguments submitted before the learned District & Sessions Judge, Patna.

06. In view of the submissions made on behalf of the parties, the learned District and Sessions Judge, Patna, is directed to take up the matter on urgent basis and dispose of the same, without granting unnecessary adjournment, within a period of three months from the date of receipt/production of a copy of this order. It is further made clear that parties would confine themselves to the written arguments already submitted before the court of learned District and Sessions Judge, Patna and the parties would not seek any unnecessary adjournment.

07. Accordingly, with the aforesaid directions, this Civil Misc. Jurisdiction Case stands disposed of.

(Arun Kumar Jha, J)

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