

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1125 of 2018

In

Civil Writ Jurisdiction Case No.9236 of 2016

Sri B. N. P. Srivastava S/o- Late Kapildeo Prasad, resident of Moh.- J.P. Colony, Chandwara, P.S.- Town, District- Muzaffarpur.

... .. Appellant/s

Versus

1. Life Insurance Corporation Of India, a body corporate constituted by the Life Insurance Corporation of India Act, 1956 having its Head Office at ‘Yogakshema’, Jeevan Bima Mart, Mumbai - through the Senior Divisional Manager, Muzaffarpur Divisional Office, Uma Shankar Prasad Marg, Muzaffarpur-842001.
2. The Senior Divisional Manager, LIC of India, Muzaffarpur Divisional Office, Jeevan Prakash, Uma Shankar Prasad Marg, Muzaffarpur-842001.
3. The Union of India through Secretary, Ministry of Labour and Employment, Govt. of India.
4. The Labour Enforcement Officer Central Imamganj, Behind Naka No. 4, Purani Naka Chawk, Muzaffarpur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Kaushalesh Choudhary, Advocate
For the Respondent/s : Mr. Abhimanyu Vatsa, Advocate
Mr. Rakesh Kumar, Advocate
Mr. Rajnikant Singh, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 01-08-2023

The appeal has been filed against an interim order of the learned Single Judge staying the certificate proceedings initiated by the petitioner before the Labour Court under Section 33C(3) of the Industrial Disputes Act, 1947.

2. The learned counsel for the appellant informs us



that the dismissal of the appellant, an employee of the L.I.C., was interfered with by the Labour Court by order dated 09.07.2018, which was upheld up to the Hon'ble Supreme Court. It was to get the fruits of the litigation that the certificate proceedings were filed, against which the employer, L.I.C., came to this Court, and a stay was obtained as early as 2016, hence the present appeal.

3. The learned counsel for the respondent-L.I.C., however, points out that there was a stay granted in the appeal, which was challenged by the L.I.C. before the Hon'ble Supreme Court. The Hon'ble Supreme Court had directed the employee to approach the writ court to get the order vacated. The appellant has not moved before the writ Court to get the order vacated.

4. The learned counsel for the appellant, however, points out that a petition was moved as early as on 06.09.2022.

5. We extract the order passed by the Hon'ble Supreme Court in Civil Appeal No. 78 of 2022 which is as below.

Leave granted.

The learned Single Judge is in seisin of the dispute and by order dated 09.07.2018 was pleased to admit the writ petition filed by the appellants and stayed



further proceedings in Certificate Case No. 322 of 2017. Instead of moving any application for vacation of this order, the respondent No. 1 straightaway preferred the LPA which was admitted by the order dated 18.02.2020 and the operation of the ex parte order granted by the learned Single Judge was stayed with a direction that the appeal should be heard on its own turn.

In our view, the affect of the impugned order would be to vacate the injunction without hearing the appeal.

We are of the view that if the respondent No. 1 was aggrieved by the order dated 09.07.2018, the appropriate course would have been to approach the learned Single Judge for necessary orders.

In view of the aforesaid, we set aside the order dated 18.02.2020 and leave it to the respondent No. 1 to move the learned Single Judge for appropriate orders for variation of the interim stay granted on 09.07.2018. The learned Single Judge may also consider whether the matter as a whole itself can be disposed of.

The appeal is allowed in the aforesaid terms leaving the parties to bear their own costs.

6. The Hon'ble Supreme Court had directed the appellant to approach the learned Single Judge for vacation of the interim order passed, which is challenged in the present appeal. In fact, the matter has been pending for long before the learned Single Judge and in appeal before us.



7. Considering the directions issued by the Hon’ble Supreme Court, we are of the opinion that the L.P.A. can be closed, leaving the remedy of the petitioner to agitate the cause before the learned Single Judge. Especially considering the long lapse of time, we would request the learned Single Judge to hear the matter itself finally and pass a judgment as expeditiously as possible.

8. The present Letters Patent Appeal stands disposed of without any observation on the merits.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

aditya/-

AFR/NAFR	
CAV DATE	
Uploading Date	03.08.2023.
Transmission Date	

