

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24455 of 2019

M/s Apex Steel Private Limited a company incorporated under the Indian Companies Act, 1956 having its registered office at 106, Ashiana Tower, Exhibition Road, Patna-1, through its Managing Director Shri Sanjiv Kumar, Son of late K.K. Bhagat, Resident of 102 B, Saket Plaza, Jamal Road, Patna-1
... .. Petitioner/s

Versus

1. The Union of India represented through the Registrar, Debts Recovery Tribunal , Patna ABF Block, 2nd Floor, Karpuri Sadan , Ashiana Digha Road, Near Rajiv Nagar Thana, Patna- 800025
2. The Indian Overseas Bank, having its Head Office at 763, Anna Salai, Chennai- 600 002 (Tamil Nadu), through its General Manager(S.M.E).
3. The Zonal Manager, Indian Overseas Bank, Zonal Officer, 119, While House, Park Street, Kolkata- 700016
4. The Senior Regional Manager, Indian Overseas Bank, Saboo Complex, Near Republic Hotel, Exhibition Road, Patna.
5. The Assistant General Manager, Indian Overseas Bank, Saboo Complex, Near Republic Hotel, Exhibition Road, Patna.
6. The Senior Manager/ Branch Manager, Indian Overseas Bank, Saboo Complex, Near Republic Hotel, Exhibition Road, Patna.
7. The Jniversal Sampo General Insurance Company Limited, having its registered Office at 201-208, Kristal Plaza, Opposite Infiniti Mall, Link Road, Andheri (West) Mumbai- 400058, through its Branch Manager, having a joint Venture with Indian Overseas Bank.
8. The Branch Manager, Universal Sompo, General Insurance Company Limited, having its Branch at 2nd Floor, Magadh Plaza Balmichak, above Indian Overseas Bank, Anishabad, Patna-2

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Alok Ranjan, Advocate
For the Respondent/s : Ms. Kanak Verma, CGC

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 03-01-2023

Petitioner has prayed for the following relief(s):-

“(i) For issuance of a writ in the nature of certiorari for quashment of judgment dated 04.02.2019 passed in OA No. 319 of 2018 by Debts Recovery Tribunal (herein



after called DRT), Patna whereby and whereunder the Learned Presiding Officer has been pleased to allow the Original Application filed by the Bank ignoring the fact that in the very first place, the suit was not maintainable in the absence of insurance Company being a necessary party and without whose presence no effective and complete judgment could have been passed.

(ii) For holding that the essence of the insurance business is the coverage of the risk by undertaking to indemnify the losses or damage and which is why hypothecation letter executed between the writ petitioner and the respondent Bank has made it mandatory to get insured complete assets of the Company including Civil Construction, plant machinery, raw materials, finished goods etc. to meet any exigency beyond human control.

(iii) For holding that the account of the petitioner Company was standard according to RBI guidelines and IRAC Norms before unprecedented floods in river Ganga and its tributaries in the year 2016 kept the factory and its godown submerged for more than a month causing irreparable extensive damage to not only plant and machinery but also to the finished items, other raw materials and civil construction resulting into a cumulative loss of more than Rs. 40 crore.

(iv) For holding that the insurance Company namely Universal Sompo General Insurance Company Limited, a joint venture of the respondent Bank, being a necessary party was intentionally not arrayed as a defendant in OA No. 319/2018 despite written as well as oral submission to this effect at the bar in DRT, Patna, the appearance of which was critical to the judicious adjudication of the original application.

(v) For holding that non settlement of the claim for more than three years has come as a double whammy for the petitioner Company in that on one hand the force majeure in the form of floods damaged everything in the Company and on the other hand, the respondent finding the petitioner in vulnerable position not only enforced provisions under SARFAESI Act but also disingenuously retrieved judgment in OA No. 319 of 2018 by rigging the law.



(vi) For any other relief or reliefs for which the petitioner may be deemed entitled to in the eyes of law.

And, in the interim

(vii) The petitioner prays for stay of the operation of the impugned judgment dated 04.02.2019 in OA No. 319 of 2018.”

Learned counsel for the petitioner, under instruction, seeks permission to withdraw the present petition for the reason that the petitioner has now preferred an application seeking review of the order dated 04.02.2019 passed in O.A. No. 319 of 2018.

Liberty, as prayed for, is granted.

We only hope and expect that the said application shall be heard and decided on merits, expeditiously, in accordance with law.

The instant petition stands disposed of as withdrawn with the liberty aforesaid.

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

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

