

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1373 of 2018

In
Miscellaneous Jurisdiction Case No.3384 of 2017

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M/s Mother India Construction Pvt. Ltd. S/o Sri Rama Shankar Singh, R/o
Pesu Staff Quarter No.4 Mangls Road, Patna,800015.

... .. Appellant/s

Versus

1. The State Of Bihar
2. The Engineer-in-Chief, Road Construction Department, Government of Bihar, Patna.
3. The Chief Engineer, South Bihar Mechanical Sub Division, Road Construction Department, Bihar.
4. The Superintending Engineer, Central Circle, Road Construction Department.
5. The Executive Engineer, Road Construction Department, Patna West Road Division, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Samir Kumar, Advocate
For the Respondent/s : Mr. Raj Ballabh Prasad Yadav- AAG-11

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

Date : 12-07-2023

The appeal is against the order dated 14.08.2018 in an M.J.C. filed in CWJC No. 706 of 2011. CWJC No. 706 2011 was with respect to dispute between the petitioner and respondent State regarding a contract entered into between themselves. After the matter was heard for sometime, in view of Section-9 of Bihar Public Works Contract And Arbitration Tribunal Act, 2008, learned counsel appearing for the petitioner



sought permission to withdraw the writ petition with liberty to approach the Tribunal. The prayer was allowed and it was also directed that if a petition is filed within a period of 1 month from the date of filing of writ petition, *de hors* limitation, Tribunal shall decide the claim of petitioner on merit. The fact remains that the application was not filed within time and it was 15 days delayed; the condonation of which delay was rejected by the impugned order in the M.J.C.

2. At first blush, it looks as if injustice has been done to the appellant, but however, the facts coming out commend this Court to find otherwise. The delayed petition before the Tribunal was filed on 25.06.2015 despite a clear direction that the petition should be filed within one month; upon which the Tribunal was also directed to ignore the limitation. If there was a delay, then the appellant ought to have approached this court and sought for an extension of time to file the petition. The appellant not only did not approach this Court at that time, but also recalcitrantly failed to remove the defects on several dates on which the matter was posted before the Arbitration Tribunal. Again, it is after one and a half years, the M.J.C was filed, on 22.11.2017. Even when the M.J.C was filed, there was no explanation for the delay and when the matter was taken up on



14.08.2018, there was a request made for time to file a supplementary affidavit, explaining the reason for delay.

3. We are of the opinion that the Learned Single Judge rightly declined indulgence to the appellant who had not been diligent in pursuing his remedies and had been recalcitrant in taking up the legal remedies.

4. The appeal stands dismissed, leaving the parties to suffer the respective costs.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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CAV DATE	
Uploading Date	17.07.2023
Transmission Date	

