

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.605 of 2024

Deepak Kumar Son of Rameshwar Prasad Singh, Resident of Village- Sihma,
Police Station- Matihani, District- Begusarai.

... .. Petitioner

Versus

1. The Bihar State Food and Civil Supplies Corporation Limited Khadya Bhawan, Daroga Prasad Rai Path, R-Block, Road No. 02, Patna 800001 through its Managing Director.
2. The Managing Director, The Bihar State Food and Civil Supplies Corporation Limited, Khadya Bhawan, Daroga Prasad Rai Path, R- Block, Road No. 02, Patna - 800001.
3. The District Manager, The Bihar State Food and Civil Supplies Corporation Limited, Madhubani.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Manish Prakash, Advocate Mr. Rohit Raj, Advocate
For the Respondent/s	:	Mr. Shailendra Kumar Singh, Advocate Mr. Anand Kishor, Advocate Mr. Utkarsh Utpal, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 27-08-2024

The matter has been taken up on mentioning being made on behalf of the petitioner.

02. Heard learned counsels for the respective parties.

03. The petitioner has filed the instant petition under Article 227 of the Constitution of India for expeditious disposal of Execution Case No. 748 of 2023 (earlier numbered as Execution Case No. 109 of 2021), pending before the learned Sub Judge-X, Patna, which has been filed by the petitioner



under Section 36 of the Arbitration and Conciliation Act, 1996 read with Order XXI, Rule 11(2) of the Code of Civil Procedure for execution of the award dated 17.10.2020 passed in Arbitration Case No. 09 of 2019 arising out of order dated 06.09.2019 passed in Request Case No. 67 of 2019.

04. Learned counsel for the petitioner submits that the after filing the Execution Case No. 109 of 2021/ Execution Case No. 748 of 2023, the judgment debtors appeared and filed their reply on 15.09.2021 mentioning therein that they have filed miscellaneous case under Section 34(2) and (iv and v) of the Arbitration and Conciliation Act bearing Misc. Case No. 157 of 2020 for setting aside the Arbitral Award dated 17.10.2020. Learned counsel further submits that the said miscellaneous case was listed several times but the Judgment Debtor/respondents did not take any pain to take effective steps on any of the dates before the learned court below. Learned counsel further submits that petitioner/Decree Holder also filed his rejoinder dated 21.09.2021 controverting several false and frivolous statement of the Judgment Debtors/Respondents. Learned counsel further submits that the petitioner also filed a petition dated 02.03.2022 under Section 51(b) and Order XXI, Rule-46 r/w Section 151 of the Code of Civil Procedure for attachment of the Bank Account



of the Corporation, but despite this no effective efforts have been taken by the learned court below. Learned counsel further submits that, thus, the learned executing court has not taken any steps for execution of the aforesaid Award passed in favour of the decree holder/petitioner despite the fact that there has been no stay order passed by the learned appellate court. Learned counsel has also relied on the decision of Hon'ble Supreme Court in the cases of ***Rahul S. Shah vs. Jinendra Kumar Gandhi and Others***, reported in ***(2021) 6 SCC 418***, wherein the Hon'ble Supreme Court has issued certain guidelines for executing court to adhere and has also directed that the execution proceeding must be concluded within six months. Learned counsel further submits that the petitioner has come before this Court with simple prayer for expeditious disposal of Execution Case No. 109 of 2021/ Execution Case No. 748 of 2023. Thus, the learned counsel submits that the learned trial court may be directed to hear the matter without giving unnecessary adjournments and dispose of the case as early as possible.

05. It is very unfortunate that the execution case is pending for such a long period. The reality is that pure civil matters take a long time to be decided, and regretfully it does



not end with a decision, as execution of a decree/Award is an entirely new phase in the long life of a civil litigation. The inordinate delay, which is universally caused throughout India in the execution of a decree, has been a cause of concern of the Courts. In the case of ***Rahul S. Shah*** (supra), the Hon'ble Supreme Court has observed that a remedy which is provided for preventing injustice in the Civil Procedure Code is in fact being misused to cause injustice by preventing timely implementation of orders and execution of decrees. Then, it has observed as under:-

“23.....The execution proceedings which are supposed to be a handmaid of justice and subserve the cause of justice are, in effect, becoming tools which are being easily misused to obstruct justice.”

06. The right to speedy trial cannot be denied to the litigants. Since it is a matter of 2021 and in the interest of litigants as well as a matter of public policy, it is very much needed that such matters are taken up and disposed of with promptitude.

07. Under the aforesaid facts and circumstances, the learned executing court is directed to take up the Execution Case No. 109 of 2021/ Execution Case No. 748 of 2023 in all



earnest and try to dispose of it at the earliest, keeping in back of mind the guidelines issued by the Hon’ble Apex Court in the case of **Rahul S. Shah** (supra).

08. Accordingly, the present petition stands disposed of with the aforesaid observation.

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.08.2024
Transmission Date	NA

