

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16226 of 2019

- 1.1 Shiv Shankar Prasad, son of late Chandradeep Narayan Singh, R/o- Village Dakhingaon, P.O. and P.S.- Wazirganj, District- Gaya- 805131(Bihar).
- 1.2 Madhu Sinha, daughter of late Chandradeep Narayan Singh, R/o- Village Dakhingaon, P.O. and P.S.- Wazirganj, District- Gaya- 805131(Bihar).
- 1.3 Kunti Devi, wife of late Chandradeep Narayan Singh, R/o- Village Dakhingaon, P.O. and P.S.- Wazirganj, District- Gaya- 805131(Bihar).
2. Chandra Mohan Kumar, S/o late Hriday Narayan Singh R/o-Village Dakhingaon, P.O. and P.S.- Wazirganj, District- Gaya- 805131(Bihar).
3. Savitri Singh W/o Late Chandra Sen Singh, (Late Hriday Narayan Singh) R/o- 7C, Raja Bagan Street, Beadon Street, P.O.- Beadon Street and P.S.- Burtola, District- Kolkata- 700006 (West Bengal).

... .. Petitioners

Versus

1. National Highways Authority of India (NHAI), through its Chairman at G5 and 6, Sector- 10, Dwarka, New Delhi- 110075.
2. Chairman, National Highway Authority of India (NHAI) at G5 and 6, Sector- 10, Dwarka, New Delhi- 110075.
3. General Manager, National Highway Authority of India (NHAI) at G5 and 6, Sector- 10, Dwarka, New Delhi- 110075.
4. Deputy General Manager (Technical) National Highway -82, National highway Authority of India (NHAI), Gaya.
5. Bihar State Road Development Corporation Through its General Manager at RCD, Mech. Workshop Campus, Sheikhpura, Patna- 800014.
6. Managing Director Bihar State Road Development Corporation at RCD, Mech. Workshop Campus, Sheikhpura, Patna- 800014.
7. Deputy General Manager (Technical) Bihar State Road Development Corporation, Project Implementation Unit, Rajgair- 8036116 (Nalanda).
8. Additional Collector Gaya, Collectorate of Gaya.
9. District Land Acquisition Officer Gaya, Collectorate of Gaya.

... .. Respondents

Appearance :

For the Petitioners	:	Mr. Jitendra Singh, Sr. Advocate Mr. Yash Singh, Advocate Mr. Tej Pratap Singh, Advocate
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For the State : Mr. Md.Khurshid Alam (AAG-12)
Mr. Ebadur Rahman Shakeb, A.C. to AAG-12
For BSRDCL : Mr. Lalit Kishore, Sr. Advocate
Mr. Manish Dhari Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT
Date : 16-01-2024

Re:- Interlocutory Application No.01 of 2022

This Interlocutory Application has been filed for substitution of heir and legal representative of petitioner no.1 namely, Chandradeep Narayan Singh, who died during the pendency of this case leaving behind his heir and legal representative, whose details have been mentioned in paragraph no.3 of this Application.

For the reasons recorded in this application, it is allowed. The heir and legal representative of petitioner no.1 namely, Chandradeep Narayan Singh, as detailed in paragraph no.3 of this Interlocutory Application, be substituted in his place.

C.W.J.C. No.16226 of 2019

By way of this writ petition, the petitioners have prayed for the following reliefs:-

“(i) For issuance of an appropriate writ/order/direction in the nature of certiorari for quashing the letter bearing Letter No.962 dated 21.12.2018 by which the respondent



Bihar State Road Development Corporation has rejected the payment of compensation, to the petitioner, in terms of the Arbitral Award dated 04.08.2018 passed by the Additional Collector-cum-Arbitrator, Gaya in RA 103 of 2016-17 on the available ground, that as the Award has been passed after the gazettee notification dated 21.06.2018 of the Central Government whereby the Divisional Commissioners have been authorized to act as Arbitrators under Section 3G (5) of the National Highways Act, 1956 and thus as such after 21.06.2018 it is the Divisional Commissioner alone who shall act as an Arbitrator.

- (ii) *For issuance of an appropriate writ/order/direction to hold and declare that the notification issued in the Extraordinary Gazettee of India bearing S.O. 3019(E) dated 21.06.2018 shall not have effect on the instant arbitration proceedings for which the Additional Collector, Gaya had already been appointed as an Arbitrator vide a Special Gazette Notification dated 10.10.2017 for the work already in progress including in*



the districts of Gaya and Nawada, in pursuance of Section 3G(5) of the National Highways Act, 1956 and for which an Arbitral Award dated 04.08.2018 has been passed being RA 103/2016-17.

(iii) To direct the Respondent Authorities to honour and give effect to the Arbitral Award dated 04.08.2018 passed by the Additional Collector-cum-Arbitrator, Gaya along with the interests prevalent at Market Rate for the period of delay in making the payment thereof.”

2. The facts of this case are that the petitioners are the owners of the land bearing plot nos.3243 and 3245, both khata no.502, Mauza-Dakhingaon, District- Wazirganj, which were subject matter of the Arbitration Proceeding in RA 103/2016-17. The Central Government issued a Notification dated 04.03.2014 for the purposes of acquiring the lands in the districts of Gaya and Nalanda for widening of N.H.-82 (Gaya-Hisua-Rajgir-Biharshif section). According to the petitioners, pursuant to the above notification dated 04.03.2014, the petitioners received a notice from the office of the Land Acquisition Officer to present themselves before him to



substantiate their claim with supporting documents and to receive the amount of compensation for the lands of the petitioners. The petitioners accepted the amount of compensation under protest as according to the petitioners the competent authority has illegally declared the land as “agricultural land” although the said land is in the nature of “commercial/residential land”. Thereafter, a notification under Section 3G(5) of the National Highways Act, 1956 was issued on 10.10.2017 regarding the decision of the Central Government to appoint the Additional Collector of the districts Gaya and Nalanda as Arbitrators for any arbitration arising out of the acquisition of land. The Notification dated 10.10.2017 bearing S.O. No.3277 (E) reads as under:-

“S.O.3277(E). - In pursuance of Sub Section (5) of Section 3G of the National Highways Act, 1956 (48 of 1956) (hereinafter referred to as the said act), the Central Government hereby appoints the officers mentioned in column (3) of the table below, to be arbitrator for the purpose of arbitration arising out of Acquisition of land for building (widening/four laning etc.) maintenance, management and operation of National Highway No.82 (Gaya – Hisua – Rajgir - Biharsharif section) (Km 0.00 to Km



92.935) in the districts of Gaya & Nalanda of the State of Bihar, who shall exercise the powers conferred and perform the duties imposed on Arbitrator by or under the said Act, within the local limits of their jurisdiction as specified in Column (2) of the said table.”

Table

Sl. No.	Name of the District	Designation of the Officer
1	(2)	(3)
1.	Gaya	Additional Collector, Gaya
2.	Nalanda	Additional Collector, Nalanda

3. Pursuant to the above notification, the Bihar State Road Development Corporation Limited issued a letter dated 03.11.2017 addressed to the District Magistrate, Gaya informing him that the Additional Collector, Gaya has been appointed as the Arbitrator for any arbitration arising out of the acquisition of land for building widening/four laning), maintenance, management and operation of NH-82 by the Central Government pursuant to Section 3G(5) of the National Highway Act, 1956. The petitioners filed an application under Section 3G(5) of the National Highway Act, 1956 read with the Arbitration Act, 1956 before the Additional Collector-cum-Arbitrator, Gaya. The said application was taken up by the



Additional Collector-cum-Arbitrator. The Deputy General Manager (Technical), Bihar State Road Development Corporation vide his letter dated 28.03.2018 addressed to the Additional Collector-cum-Arbitrator, Gaya informed that pursuant to the order of this Court, a site inspection was carried out in connection with the Arbitration proceeding pending before him in connection with the land acquired under the National Highway Act, 1956 for up-gradation/four Laning of NH-82. In the above connection, the site of the acquired land of the petitioners was also visited and an inspection was carried out. Pursuant to the above mentioned letter dated 28.03.2018 and on the basis of the inspection report with regard to the said Arbitration proceeding, the Additional Collector-cum-Arbitrator, Gaya on 04.08.2018 passed an Award in favour of the petitioners being RA 103/2016-17 holding that though there is no structure over the land in issue, being Khesra No. 3243, but on account of the fact that brick pillars are situated over the said land and residential/commercial structures/buildings are situated near NH - 82 the compensation in lieu of the land acquired shall be given treating the land to be "*Vikasheel*" (commercial/residential).

4. It is the case of the petitioners that during the



pendency of the said arbitration proceeding, a notification bearing S.O. 3019(E) dated 21.06.2018 was published in the Extraordinary Gazette of India regarding the decision of the Central Government to appoint the Divisional Commissioner for the districts of Darbhanga, Bhagalpur, Munger, Purnia, Muzaffarpur, Gaya, Saharsa, Patna and Saran as Arbitrators to exercise the powers conferred and perform the duties imposed within the local limits of their respective jurisdiction. However, the District Magistrate, Gaya, vide letter dated 27.07.2018 asked the Additional Collector-cum-Arbitrator, Gaya, to proceed with pending arbitrations and pass final order in the said arbitration proceedings within one month and in light of the aforesaid direction of the District Magistrate, the Additional Collector-cum-Arbitrator passed the arbitral award in the instant case.

5. It is also the case of the petitioners that the Deputy General Manager (Technical), Bihar State Road Development Corporation Limited vide letter dated 21.12.2018 communicated the Additional Collector-cum- Arbitrator, Gaya that the arbitral award in the instant case has been passed after the notification dated 21.06.2018 whereby the Divisional Commissioner of the concerned district has been appointed as the Arbitrator by the Central Government for Arbitration and as



such, all such arbitrations are to be proceeded with only by the Divisional Commissioner, Gaya so appointed in terms of the said notification dated 21.06 2018.

6. It is also the case of the petitioners that the Director, Land Acquisition, Bihar vide letter dated 27.08.2018 informed all the Arbitrators-cum-Additional Collectors that vide the said notification dated 21.06.2018 being No. S.O. 3019(E), the Divisional Commissioner, Gaya has been appointed as the Arbitrator by the Central Government and therefore, the Arbitrators should refrain from any such arbitration proceeding which are pending before them and transfer the same to the Divisional Commissioner so that the same may be disposed of at the earliest. However, by the time the said letter dated 27.08.2018 was communicated to the Arbitrator-cum-Additional Collector, Gaya, the Arbitral Award in the instant case had already been passed in favour of the petitioners.

7. It is the contention of the petitioners that the provisions of Section 34(1) of the Arbitration and Conciliation Act, 1996 expressly provides that an arbitral award may be set aside only by way of an application in the competent Court on the grounds set out in sub-section (2) of Section 34 of the Arbitration and Conciliation Act, 1996. In the instant case, the



Additional Collector -cum- Arbitrator was the notified authority to hear and decide the dispute and was competent to do so under the notification of the Central Government dated 10.10.2017. Therefore, the Additional Collector-cum-Arbitrator, Gaya cannot be said to have wrongly entered into the arbitration proceeding of the petitioner and has wrongly passed the said arbitral award dated 04.08.2018.

8. It is the contention of the petitioners that the notification dated 10.10.2017 issued for a specific area i.e. Gaya and Nalanda authorizing a special person for a specific purpose and the aforesaid notification dated 21.06.2018 does not rescind/override the earlier notification dated 10.10.2017, which was a special notification for the purpose of any arbitration arising out of acquisition for land for the purpose of building (widening/four Laning) maintenance, management and operation for NH-82 (Gaya Hisua-Rajgir-Biharsharif section) in the Districts of Gaya and Nalanda.

9. It is also the contention of the petitioners that they are entitled for interest on the award amount from the date of the award till the date of actual payment of awarded amount.

10. Learned counsel for the petitioner has relied upon the following decisions:-



- (i) *Commissioner of Income TAX, Bangalore vs. R. Sharadamma* reported in (1996) 8 SCC 388.
- (ii) *Om Prakash Agarwal through Legal Representatives and Others vs. Vishan Dayan Rajpoot and Another* reported in (2019) 14 SCC 526.
- (iii) *Neena Aneja and Another vs. Jai Prakash Associates Limited* reported in (2022) 2 SCC 161.

11. The State has filed its counter affidavit and in the counter affidavit the State has reiterated the facts of the writ petition.

12. The Bihar State Road Development Corporation Limited has also filed its counter affidavit and has submitted that arbitration proceeding should have been adjudicated by the Divisional Commissioner after the Gazette notification dated 21.06.2018. It has further been submitted that the Gazette notification dated 21.06.2018 has overriding effect over all the previous notifications issued under section 3(G)(5) of the National Highways Act, 1956 and therefore, the Divisional Commissioner should have proceeded with the



arbitration in the case of the petitioners as the same was pending on 21.06.2018.

13. I have considered the submissions of the parties. The crux of the argument of learned counsel for the petitioners is that by special enactment for the project in question, the arbitrators i.e. Additional Collector, Gaya and Additional Collector, Nalanda were appointed for deciding the disputes for the purpose of arbitration arising out of acquisition of land for building (widening/four laning etc.) maintenance, management and operation of National Highway No.82 (Gaya-Hisua-Rajgir-Biharsharif section) (Km 0.00 to Km 92.935), in the district of Gaya and Nalanda of the State of Bihar and before publication of notification dated 21.06.2018, the arbitration proceedings were concluded but the order was passed by the Arbitrator on 04.08.2018 and therefore, the same should not have been transferred to the Divisional Commissioner as per the notification dated 21.06.2018. He has also submitted that the new notification dated 21.06.2018 does not affect the pending arbitration as there is no mention in the new notification about the pending arbitrations.

14. In *Commissioner of Income Tax, Bangalore vs. R. Sharadamma (supra)*, the Hon'ble Supreme Court has



held in paragraph nos. 9 to 11 as under:-

- “9. *In our opinion, the principle underlying the said decision is squarely applicable herein. In this case also, a reference was made to the Inspecting Assistant Commissioner in accordance with the law in force on the date of reference. Once the Inspecting Assistant Commissioner was thus seized of the matter, he did not lose seisin thereof on account of the deletion of sub-section (2) of Section 274. This is also the principle underlying Section 6 of the General Clauses Act.*
10. *We may also mention that in Dhadi Sahu², this Court referred inter alia to the earlier decision of this Court in Manujendra Dutt v. Purnedu Prosad Roy Chowdhury which too was a case of deletion of Section 29 of the Calcutta Thika Tenancy Act, 1949 by the Amendment Act of 1953. It was held by this Court that by virtue of the said deletion, the Controller, before whom the proceeding was pending, was not deprived of the jurisdiction to try the matter pending before him on the date of the coming into force of the amending Act.*
11. *We are, therefore, of the view that the Inspecting Assistant Commissioner did not lose the jurisdiction to continue with*



the proceedings pending before him on 31-3-1976 by virtue of the deletion of sub-section (2) of Section 274 by the Taxation Laws (Amendment) Act, 1970 with effect from 1-4-1976. He was entitled to continue with those proceedings and pass appropriate orders according to law.”

15. In *Om Prakash Agarwal through Legal Representatives and Others vs. Vishan Dayan Rajpoot and Another (supra)* the Hon’ble Supreme Court in paragraph nos. 56, 57, 58, 62 and 63 has held as under:-

“56. It is the submission of learned counsel for the appellant that even if the Additional District Judge was not competent to decide the small causes suit on 22.10.2016, the judgment of the Additional District Judge was not liable to be interfered with by the revisional court in view of Section 21 of the Code of Civil Procedure. Section 21 of the Code of Civil Procedure relates to objection to jurisdiction. Section-21 of the Code of Civil Procedure is as follows:-

21.Objections to jurisdiction.—[(1)]*No objection as to the place of suing shall be allowed by any Appellate or Revisional Court unless such objection was taken in the Court of first instance at the earliest possible opportunity and in all cases where issues are settled at or before such*



settlement, and unless there has been a consequent failure of justice.

[(2) No objection as to the competence of a Court with reference to the pecuniary limits of its jurisdiction shall be allowed by any Appellate or Revisional Court unless such objection was taken in the Court of first instance at the earliest possible opportunity, and, in all cases where issues are settled, at or before such settlement, and unless there has been a consequent failure of justice.

(3) No objection as to the competence of the executing Court with reference to the local limits of its jurisdiction shall be allowed by any Appellate or Revisional Court unless such objection was taken in the executing Court at the earliest possible opportunity, and unless there has been a consequent failure of justice.”

57. The policy underlying Section 21 of Code of Civil Procedure is that when the case has been tried by a court on merits and the judgment rendered, it should not be liable to be reversed purely on technical grounds, unless it has resulted in failure of justice. The provisions akin to Section 21 are also contained in Section 11 of the Suit Valuation Act, 1887 and Section 99 of the Code of Civil Procedure. This Court had the occasion to consider the principle behind Section 21, Code of Civil Procedure and Section 11 of the Suit Valuation Act, 1887 in Kiran Singh v. Chaman Paswan.



*In para 7 of the judgment following was laid down:
(AIR p. 342)*

“7. ... The policy underlying Sections 21 and 99 of the Civil Procedure Code and Section 11 of the Suits Valuation Act is the same, namely, that when a case had been tried by a court on the merits and judgment rendered, it should not be liable to be reversed purely on technical grounds, unless it had resulted in failure of justice, and the policy of the legislature has been to treat objections to jurisdiction both territorial and pecuniary as technical and not open to consideration by an appellate court, unless there has been a prejudice on the merits. The contention of the appellants, therefore, that the decree and judgment of the District Court, Monghyr, should be treated as a nullity cannot be sustained under Section 11 of the Suits Valuation Act.”

58. One more submission which was raised in the said appeal was considered by this Court. One of the submission of the appellant who had instituted the suit in the subordinate court was that as per the revised valuation, the appeal against the decree of the subordinate Judge did not lie before the District Court but to the High Court, hence, the judgment of the District Judge in appeal should be ignored. The appeal in the High Court be treated as first appeal. It was contended that appellant has been prejudiced in the above manner. Rejecting the above submissions, this Court laid down following in paras 11 and 12: (Kiran



Singh case , AIR p. 343)

“11. ... This argument proceeds on a misconception. The right of appeal is no doubt a substantive right, and its deprivation is a serious prejudice; but the appellants have not been deprived of the right of appeal against the judgment of the Subordinate Court. The law does provide an appeal against that judgment to the District Court, and the plaintiffs have exercised that right. Indeed, the undervaluation has enlarged the appellants' right of appeal, because while they would have had only a right of one appeal and that to the High Court if the suit had been correctly valued, by reason of the undervaluation they obtained right to two appeals, one to the District Court and another to the High Court. The complaint of the appellants really is not that they had been deprived of a right of appeal against the judgment of the subordinate court, which they have not been, but that an appeal on the facts against that judgment was heard by the District Court and not by the High Court. This objection therefore amounts to this that a change in the forum of appeal is by itself a matter of prejudice for the purpose of Section 11 of the Suits Valuation Act.

12. The question, therefore, is, can a decree passed on appeal by a court which had jurisdiction to entertain it only by reason of undervaluation, be set aside on the ground that on a true valuation that court was not



competent to entertain the appeal? Three High Courts have considered the matter in Full Benches, and have come to the conclusion that mere change of forum is not a prejudice within the meaning of Section 11 of the Suits Valuation Act. Vide Kelu Achan v. Cheriya Parvathi Nethiar, Moolchand Motilal v. Ram Kishen and Ramdeo v. Raj Narain. In our judgment, the opinion expressed in these decisions is correct.”

62. *Again in Subhash Mahadevasa Habib v. Nemasa Ambasa Dharmadas, this Court held that there is distinction between lack of inherent jurisdiction and objection to territorial and pecuniary jurisdiction. This Court noticed the amendments made in Section 21 in the year 1976. Following was stated in paras 34, 37 and 41: (SCC pp. 666-67 & 669)*

“34. It may be noted that Section 21 provided that no objection as to place of the suing can be allowed by even an appellate or Revisional Court unless such objection was taken in the court of first instance at the earliest possible opportunity and unless there has been a consequent failure of justice. In 1976, the existing section was numbered as sub-section (1) and sub-section (2) was added relating to pecuniary jurisdiction by providing that no objection as to competence of a court with reference to the pecuniary limits of its jurisdiction shall be allowed by any appellate or Revisional Court unless such objection had been taken in the first instance at the earliest possible opportunity and unless there had been



a consequent failure of justice...

37. As can be seen, Amendment Act 104 of 1976 introduced sub-section (2) relating to pecuniary jurisdiction and put it on a par with the objection to territorial jurisdiction and the competence to raise an objection in that regard even in an appeal from the very decree. This was obviously done in the light of the interpretation placed on Section 21 of the Code as it existed and Section 11 of the Suits Valuation Act by this Court in Kiran Singh v. Chaman Paswan followed by Hira Lal Patni v. Kali Nath and Bahrein Petroleum Co. Ltd. v. P.J. Pappu. Therefore, there is no justification in understanding the expression “objection as to place of suing” occurring in Section 21-A as being confined to an objection only in the territorial sense and not in the pecuniary sense. Both could be understood, especially in the context of the amendment to Section 21 brought about by the Amendment Act, as objection to place of suing.

41. In the light of the above, it is clear that no

objection to the pecuniary jurisdiction of the court which tried OS No.61 of 1971 could be raised successfully even in an appeal against that very decree unless it had been raised at the earliest opportunity and a failure of justice or prejudice was shown. Obviously therefore, it could not be collaterally challenged. That too not by the plaintiffs therein, but by a defendant whose alienation



was unsuccessfully challenged by the plaintiffs in that suit.”

63. Now, reverting back to the facts of this case it is apparent from the judgment dated 22-10-2016 of the Additional District Judge, that no objection to the competence of the Additional District Judge to decide the case was taken by any of the parties. No objection having been taken to the pecuniary jurisdiction of the Additional District Judge, Section 21 of the Civil Procedure Code comes into play. Sub-section (2) of Section 21 provides that no objection as to the competence of the court with reference to the pecuniary limits of the jurisdiction shall be allowed by any appellate or Revisional Court unless conditions mentioned therein are fulfilled. No objection has been raised by the respondent tenant regarding competence of the court. Sub-section (2) precludes the revisionist to raise any objection regarding competence of the court and further Revisional Court ought not to have allowed such objection regarding competence of Court of Additional District Judge to decide the suit. The respondent tenant did not raise any objection regarding competence of the court and took a chance to obtain judgments in his favour on merits, he cannot be allowed to turnaround and contend that the Court of Additional District Judge had no jurisdiction to try the small cause suit and the judgment is without jurisdiction and nullity. Section 21 has been enacted to thwart any such objection by unsuccessful party who did not raise any objection regarding competence of court and allowed the matter to be heard on merits. Further, in deciding the small cause suit by the



Additional District Judge, the tenant has not proved that there has been a consequent failure of justice.”

16. In *Neena Aneja and Another vs. Jai Prakash Associates Limited (supra)* the Hon'ble Supreme Court has held that repeal of 1986 Act and the commencement of pecuniary jurisdiction of consumer forums by virtue of new enactment i.e. 2019 Act does not affect pending proceedings i.e. proceedings instituted before the commencement of the 2019 Act and the same shall continue before the concerned Consumer Forums corresponding to those under the 1986 Act. In other words, the proceedings instituted before the commencement of the 2019 Act would continue before the fora corresponding to those under the 1986 Act and would not be transferred in terms of pecuniary jurisdiction set for the fora established under the 2019 Act.

17. In the present case, the arbitration proceeding was continuing before the Additional Collector as per notification dated 10.10.2017. The new notification dated 21.06.2018 does not repeal the earlier notification and therefore, under Section 6 of the General Clauses Act, 1987 the earlier arbitration proceeding which were continuing before the Additional Collector as per the earlier notification are protected. Moreover, the earlier notification dated 10.10.2017 was for the



particular project and the consequent notification dated 21.06.2018 is a general notification with regard to the districts of Bihar. The arbitration proceeding had already been concluded and the judgment was pronounced after the notification dated 21.06.2018. In the present case, when the arbitration case was instituted, the Additional Collector alone had the jurisdiction and therefore, there was no lack of jurisdiction. Further, no objection whatsoever was raised by the NHAI at any point of time even after the publication of Notification dated 21.06.2018 and instead the National Highway Authority of India participated in the arbitration proceeding.

18. I have also considered the judgments of the Hon'ble Supreme Court rendered in the case of *Commissioner of Income Tax, Bangalore vs. R. Sharadamma (supra)*, *Om Prakash Agarwal vs. Vishan Dayan Rajpoot and Another (supra)* and *Neena Aneja and Another vs. Jai Prakash Associates Limited (supra)*. In the present case, the Additional Collector was seized of the matter, he did not lose *seisin* thereof an account of change of arbitrator as per new notification dated 21.06.2018 and as per the principle underlined under Section-6 of the General Clauses Act, 1987. The arbitration proceeding held by the Additional Collector cannot be held to be illegal by



virtue of the new notification dated 21.06.2018 conferring the power of arbitration to the Divisional Commissioner. The Additional Collector before whom the proceeding was pending was not deprived of jurisdiction to conclude the arbitration proceeding which was pending before him on the date of coming into force of new notification. The Additional Collector did not lose jurisdiction to continue with the arbitration proceeding pending before him on 21.06.2018 by virtue of coming of the new notification. He was entitled to continue with the pending proceedings and pass appropriate orders in accordance with law. The Additional Collector who has concluded the arbitration proceeding did not lack inherent jurisdiction.

19. In these circumstances, I am of the view that arbitration proceedings which were already pending before the Additional Collector pursuant to the original notification/past notification cannot be affected due to the coming of the new notification and more so, in the case of the petitioners, when the petitioners were already heard and the arbitration award was to be pronounced by the Arbitrator, who is the Additional Collector.

20. In view of the above, this writ petition is



allowed. Accordingly, the letter bearing no.962 dated 21.12.2018 issued by the Deputy General Manager (Technical), Bihar State Road Development Corporation Limited is quashed and it is held that the notification dated 21.06.2018 shall not have any effect on the arbitration proceeding of the petitioners. The respondents are directed to give the effect of the arbitral award dated 04.08.2018 passed by the Additional Collector, Gaya, in RA 103/2016-17 along with interest at the rate of 12% per annum for the period of delay in making the payment i.e. from the date of passing of the award till the actual payment of awarded amount.

(Sandeep Kumar, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	31.01.2024
Transmission Date	

