

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13618 of 2023

Delhi Telecom Pvt. Ltd. Company Registered under the Indian Companies Act having its Registered office at D2/3, Okhla Industrial Area, Phase-II, New Delhi-110020 through its Authorized Representative Sanjeev Kumar, aged about 51 years (male), son of Manohar Lal, resident of H 1/31, KH No 8321/1/2, Mahavir Enclave, Palam Gaon, P.S-Palam, District - West Delhi, Delhi.

... .. Petitioner/s

Versus

1. The East Central Railway, Hajipur Through its General Manager, Hajipur, Vaishali.
2. The General Manager, East Central Railway, Hajipur, Vaishali.
3. The Principal Chief Material Manager, East Central Railway, Hajipur, Vaishali.
4. The Deputy Chief Materials Manager/II, East Central Railway, Hajipur, Vaishali..

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Saket Tiwary, Advocate
For the Respondent/s	:	Mr. Awadesh Kr. Pandey, Sr. CGC
		Mr. Arvind Kumar, CGC
		Mr. Abhishek Kr. Verma, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 17-09-2024

There was a contract entered into by the petitioner and the 1st respondent, which was not completed, on which certain disputes arose. The petitioner's contract was terminated and the petitioner was also asked to pay damages. Both the order of termination and the order of damages was challenged before this Court in this writ petition.

2. Admittedly, an arbitration proceeding has been initiated by the Railways.

3. In such circumstances, the petitioner only prays



that the question of termination and also damages be considered in the arbitration proceedings and he be left remedy to challenge both these consequences before the Arbitral Tribunal appointed and in the meanwhile, no coercive action be taken for recovery of damages.

4. Since the arbitration proceedings are initiated, we are of the opinion that as of now, the Railways should not initiate coercive proceedings for recovery of damages, since the same would depend upon the final arbitral award passed. The Railways would be entitled to claim for damages and the petitioner would also be entitled to resist it before the Arbitral Tribunal.

5. If any amount has been recovered already, then necessarily, the petitioner would be entitled to set-off or refund as decided by the Arbitral Tribunal.

6. With the above reservations, the writ petition stands closed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	18.09.2024.
Transmission Date	

