

IN THE HIGH COURT OF JUDICATURE AT PATNA
COMMERCIAL APPEAL No.3 of 2025

East Central Railway through the Deputy Chief Engineer (Construction) East Central Railway, Mughalsarai, namely Anil Kumr Singh, aged about 58 years, Gender Male, Son of Jagdish Singh, Resident of Qtr. No. C/V- 1, Basant Vihar Colony, Mughalsarai, P.S. Mughalsarai, District Chandauli and presently through Rameshwar Singh, Aged about 59 years, Gender Male, Son of Shyam Narayan Singh, Resident of Qtr. No. 1602, Type - V, European Colony, Mughalsarai, P.S. Mughalsarai, District Chandauli.

... .. Appellant

Versus

Arjun Engicon Pvt. Ltd., J-177, P.C. Colony, P.S. Kankarbagh, District Patna - 800020 through its Director Ravi Bhushan, Resident of J-117, P.C. Colony, P.S. Kankarbagh, District Patna.

... .. Respondent

Appearance :

For the Appellant	:	Dr. K.N. Singh, ASG Mr. Bindhyachal Rai, Senior Counsel Mr. Manoj Kumar Singh, CGC
For the Respondent	:	Mr. Shailendra Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 17-04-2026

Heard Dr. K.N. Singh, learned ASG assisted by Mr. Bindhyachal Rai, learned Senior Counsel for the appellant and Mr. Shailendra Kumar Singh, learned counsel for the respondent.

2. The present appeal arises out of the order dated 21.07.2023 passed by learned Additional Sessions Judge-VIII, Patna in Miscellaneous (Arbitration) Case No. 14 of 2018 by which the learned Additional Sessions Judge-VIII has been pleased to dismiss the application under Section 34 of the Arbitration and



Conciliation Act, 1996 (as amended up to date) (hereinafter referred to as the 'Act of 1996 (as amended up to date)') and affirmed the award dated 21.09.2017 passed by the learned Arbitral Tribunal whereunder the present appellant has been directed to make payment of Rs.46,45,228/- to the claimant/respondent within three months, failing which the amount will carry the interest at the rate of 16% per annum from the date of award. The learned court, however, modified the rate of interest to 9% per annum instead of 16% per annum.

3. In the nature of the order proposed to be passed with the consent of learned counsel for the parties, this Court need not go into the factual details of the present matter.

4. It is an admitted position that Section 34 application has been heard and decided by learned Additional Sessions Judge on transfer of the records by the learned Principal District Judge, Patna.

5. This Court has taken a consistent view that it is the court of learned District Judge (now known as Principal District Judge) who is the Commercial Court in terms of the Notification dated 2nd August, 2019 issued by the State Government in exercise of its power under Section 3 of the Commercial Courts, Commercial Appellate Courts, Commercial Divisions and



Commercial Appellate Divisions of High Courts Act, 2015 (hereinafter referred to as the 'Act of 2015') in consultation with the High Court of Judicature at Patna.

6. Recently, in the case of **M/s Bihar State Road Development Corporation Ltd. Vs. M/s M.G Contractors (P) Ltd. in Commercial Appeal No. 10 of 2024**, this Court had occasion to consider this aspect of the matter once again. Upon discussing the entire submissions and the provisions of law as also the provisions of the Bengal, Agra and Assam Civil Courts Act, 1887 (hereinafter referred to as the 'Act of 1887'), this Court has held that the District Judge who has been constituted as a Commercial Court within the meaning of the Act of 2015 does not derive any power to further transfer its adjudicatory power as a Commercial Court to the Additional Judges. We reproduce paragraphs '32' to '37' of the judgment in case of **M/s Bihar State Road Development Corporation (supra)** hereunder for a ready reference:-

“32. Since we are concerned with the construction and interpretation of the Notification dated 02.08.2019 and a contention has been raised that the Court of District Judge would take within its compass the Court of Additional District Judges also because they are same in status by virtue of Article 236(a) of the Constitution of India, it would be important to



take note of Section '8' of the Act of 1887 hereunder:-

“8. **Additional Judges.**-(1) When the business pending before any District Judge requires the aid of Additional Judges for its speedy disposal, the ²[State] Government may, ³[having consulted] the High Court ⁴[***], appoint such Additional Judges as may be requisite.

(2) Additional Judges so appointed shall discharge any of the functions of a District Judge which the District Judge may assign to them, and in the discharge of those functions, they shall exercise the same powers as the District Judge.”

33. A conjoint reading of Section '3' and Section '8' of the Act of 1887 would leave no room for doubt that the Court of the District Judge and that of the Court of the Additional Judge are two different Courts. There is no iota of doubt that the Court of the Additional Judges have been envisaged for the speedy disposal of the cases pending before any District Judge and once the same is assigned to an Additional Judge by the District Judge, he would discharge his duties in respect of the assigned matters and while doing so, the learned Additional Judges would carry on the functions of a District Judge, they shall exercise the same power as the District Judge.

34. To this Court, it is evident that the Notification dated 02.08.2019, constituting a Commercial Court under Section 3 of the Act of 2015 has kept itself confined to the Court of Civil Judge (Senior Division) and to the Court of

2. Subs. by the A.L.O.

3. Subs. by the A.L.O. for "upon the recommendation of."

4."And with the previous sanction of the Governor General in Council" rep. by Act 16 of 1911, S.3.



District Judge, in all the Districts of the State of Bihar. The Notification dated 02.08.2019 as framed cannot be construed in the manner suggested by learned counsel for the sole respondent.

35. The District Judge (now known as 'Principal District Judge) of a District who has been constituted as a Commercial Court within the meaning of Act of 2015 does not derive any power to further transfer its adjudicatory power as a Commercial Court to the Additional Judges. This was obviously not the position under the Kerala Civil Court Rules.

36. We find no plausible reason to take a different view from that of our own Division Bench in the case of **M/s Johnson Paints Pvt. Ltd. (supra)**.

37. This appeal succeeds on this point alone. The impugned judgment dated 30.07.2024 passed by the learned Additional District & Sessions Judge-VIII, Patna is hereby set aside.”

7. Learned counsel for the parties are aware of the judgments on this point and they have at the outset submitted that this case would be covered by the judgment of this Court in case of **M/s Bihar State Road Development Corporation (supra)**.

8. In the aforesaid view of the matter, we set aside the impugned order passed by the learned Additional Sessions Judge-VIII, Civil Court, Patna and remit the matter to the court of learned Principal District Judge, Patna.



9. The learned Principal District Judge, Patna shall consider the application under Section 34 of the Act of 1996 on its own merit and shall pass a judgment/order within a reasonable period.

10. Let a copy of this judgment together with the records of the learned court below and the Arbitral Tribunal records be sent down to the court of learned Principal District Judge, Patna at the earliest.

11. This appeal stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

(Soni Shrivastava, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	18.04.2026
Transmission Date	

