

Court of Sub Judge-I, Dumraon (Buxar)
F.D 214/2002 (CISNo. 2/2024)

Order

01.10.2024 Both sides absent. Perused the record. From perusal of the record it transpires that this Court vide order dated 28.10.2021, vacated the stay order passed by Hon'ble Patna High Court in Civil Misc. Jurisdiction no.1117 of 2017 dated. 04.10.2017 in the light of Hon'ble Supreme Court Judgement in Asian Resurfacing case. A five judges Constitutional Bench of Hon'ble Supreme Court of India in High Court Bar Association Allahabad Vs State of UP & Others. (Special leave petition (Crl) No. 13284-13289 of 2023 passed on dt. 29.02.2024), adjudicated inter alia upon whether the court, in exercising of its jurisdiction under 142 of the Constitution of India, can order the automatic vacation of all interim/stay order of the High Court in civil & criminal cases on the expiring of certain period.

The Hon'ble Apex Court answered the aforementioned question in the negative & categorically held that the recourse to the jurisdiction under 142 must be invoked only to do complete justice & "not to pass blanket order setting at naught a very large number of interim order, lawfully passed by the all the High Courts". Accordingly the Hon'ble Supreme Court over ruled 2018 decision in Asian resurfacing of Road Agency Pvt. Ltd Vs C.B.I. wherein it was held that interim order passed by High Courts of India in Civil & Criminal trail shall be automatically expired after six months from the date of such order, unless extended by the express order.

So, in the light of above mentioned Hon'ble Supreme Court Judgement, the order passed by Ld. Sub Judge-III, Buxar on 28.10.2021 is hereby recalled by invoking inherent power u/s 151 of C.P.C & the case proceeding is stayed in light of Hon'ble Patna High Court order passed in Civil Misc. Jurisdiction no.1117 of 2017 dated. 04.10.2017. Put on 22.10.2024 for awaiting for Hon'ble Patna High Court order.

Dictated

I/c Sub Judge-I
Dumraon