

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_
Cont Cas(C) No.12 of 2023

Shri Biswajit Saha

.....Petitioner(s)

V E R S U S

Sri Debasish Sarkar

.....Respondent(s)

For Petitioner(s) : Mr. C.S. Sinha, Advocate.

For Respondent(s) : None.

HON'BLE THE CHIEF JUSTICE (ACTING)

ORDER

07.02.2023

Heard Mr. C.S. Sinha, learned counsel appearing for the petitioner.

[2] The instant petition has been filed under Section 12 of the Contempt of Courts Act, 1971 for drawing up a contempt proceeding against the respondent for willful disobedience of the judgment and order dated 28.02.2022 passed by this Court in WP(C) No.488 of 2021.

[3] Brief facts are as under :

The petitioner is an electrical contractor of Tripura State Electricity Corporation Ltd. (TSECL). In the year 2019, his payments from 5 different projects were withheld arbitrarily over a dispute on a single project. Aggrieved by the arbitral order, the petitioner approached this Court and subsequently this Court directed the respondent for releasing

payments of 4 works within 21 days otherwise it would carry interest @ 7.5% when the payment fell due. Subsequently, 2 bills were released and the petitioner approached this Court for remaining 2 bills with interest. The case was disposed of upholding the earlier order dated 25.09.2020.

[4] Petitioner has prayed for the following reliefs :

- “(a) Admit this petition;
- (b) Call for records;
- (c) Draw up a contempt proceeding under Section 12 of the Contempt of Courts Act, 1971 read with the provision of Article 215 of the Constitution of India against the respondent for his willful and deliberate violation of direction in order and judgment dated 28.02.2022 in WP(C) No.488 of 2021;
- (d) After hearing, punish the respondent under Section 12 of the Contempt of Courts Act, 1971 read with the provision of Article 215 of the Constitution of India against the respondent for his willful and deliberate violation of direction in order and judgment dated 28.02.2022 in WP(C) No.488 of 2021;
- (e) Any other relief(s) as to this Hon’ble High Court may deem fit and proper.”

[5] The petitioner had approached this Court by filing writ petition [WP(C) No.1320 of 2019] dated 25.09.2020 for payment of the works and the learned Single Judge of this Court vide judgment dated 25.09.2020 directed that the payment should be made within a period of 21 days from the date of copy of this order to the respondents without fail, else, the said amount should carry interest at the rate of 7% per annum from the day when those amount fell due till payment.

[6] Subsequently, the petitioner wrote a letter to the Managing Director, Corporate Office, TSECL, Agartala, West Tripura dated 12.04.2022 citing his grievances that despite several requests and reminders, the payments were not released in his favour. The payment of the works had been due from 2018 to 2022 and nearly 4 years had already been elapsed but no payments had been made.

[7] The petitioner once again approached this Court by filing writ petition [WP(C) No.488 of 2021] dated 28.02.2022 and the learned Judge of this Court dismissed the petition *inter alia* observing that since the earlier order clearly holds that in the event of the amount was not made within the stipulated time, the unpaid amount should carry interest @ 7% till payment and as such the petitioner did not have any fresh cause which would enable him in approaching the court by filing a fresh writ petition.

The operative portion of the order reads as follows :

“The second limb of submission of Mr. Sinha, learned counsel is really surprising. When the court has given the full relief and the order of the court has not been complied, the petitioner has approached this court second time for urging the same relief. The order of this court clearly holds that if the payment is not made within the stipulated time, the unpaid amount shall carry interest @ 7% till the payment is made. As such, the petitioner does not have any fresh cause which will enable him in approaching the court by filing a fresh writ petition. Having observed thus, this writ petition stands dismissed. No order as to costs.”

[8] Mr. C.S. Sinha, learned counsel for the petitioner contends that the respondent has not complied with the order of this Court as the

remaining 1 bill out of the 4 projects is yet to be made and further urged to draw up contempt proceedings against the respondent. No representation is made on behalf of the respondent.

[9] After hearing learned counsel for the petitioner this Court is of the considered view that this is not a case of contempt and directs dismissal of the same. If there is anything, the petitioner ought to have made out a case in WP(C) No.1320 of 2019 not in WP(C) No.488 of 2021 wherein the case of the petitioner was dismissed. Accordingly, the instant petition is dismissed. Pending application(s), if any, also stands disposed of.

CHIEF JUSTICE (ACTING)

Dipesh



सत्यमेव जयते