

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

LPA No. 68/2022

1. M/s R D Singh through its proprietor
Rahul Dev Singh, Age 45 years
S/o Sh. Sampuran Singh Salathia
R/o 7, Jaswant Niwas, Nagbani
Tehsil and District Jammu

....Petitioner(s)/Appellant(s)

2. Rahul Dev Singh, Age 45 years
S/o Sh. Sampuran Singh Salathia
R/o 7, Jaswant Niwas, Nagbani
Tehsil and District Jammu

Through :- Mr. Ajay Bakshi, Advocate.

V/s

1. UT of J&K through
Commissioner/Secretary, Jal Shakti
Civil Secretariat, Jammu/Srinagar
2. Chief Engineer
Jal Shakti Department
3. Superintendent Engineer
PHE Mechanical Rural Circle
Jammu
4. Executive Engineer
Jal Shakti (M) G.W.D
Division Jammu

....Respondent(s)

Through :- Mr. Amit Gupta, AAG.

**Coram: HON'BLE MR. JUSTICE TASHI RABSTAN, JUDGE
HON'BLE MR. JUSTICE RAJESH SEKHRI, JUDGE**

ORDER

08.09.2023

1. This intra court appeal has been filed by the appellants against the judgment dated 26.05.2022 passed in WP(C) No. 1201/2021 to the extent of not granting the interest over the admitted liability from the date of actual completion of work i.e. 15.03.2018.

2. The judgment of the learned Single Judge has been assailed by the appellants, inter alia, on the following grounds:

i. *Because the hon'ble Single Judge has not considered the prayer part of the appellant for granting the interest over the admitted*

claim at the rate of 7.6% per annum from the date of completion of the certificate of execution of work/bills submitted to the respondents.

- ii. Because the learned Single Judge has not appreciated that the appellant/petitioner had utilized the amount for the execution of work from cash credit limits and the appellants are paying the interest over the said amount till date.*
- iii. Because the learned Single Judge has not appreciated that there is no negligence on the part of the appellants while executing the work and the work has been completed within the specified period of time and the appellants are paying the interest w.e.f. 16.08.2017.*
- iv. Because the learned Single Judge has not considered that the appellants had already suffered loss as they have paid the interest over the cash credit limit which they had taken from J&K Bank Branch Patel Nagar Jammu and single Judge without considering the same had passed the impugned order.*
- v. Because the learned Single Judge has not appreciated that the respondent has not acted fairly and reasonably and acted arbitrarily on their part by not clearing the liability though they have taken the possession of the work executed by the appellants.*

3. Learned counsel for the appellants submitted that the appellants had successfully executed the work on 15.03.2018, which had been allotted vide order No.PHE/PS/5750-52 dated 16.05.2017. In support of his submission, learned counsel for the appellants has placed on record the copy of the

completion certificate (page-29 of the paper book) issued by respondent no.4 in favour of M/S R D Singh and Co.

4. On the other hand, learned AAG appearing for the respondents has strong reservations in case this court issues the direction to the aforesaid extent.

5. Heard learned counsel for the parties and perused the impugned judgment.

6. Perusal of the record appended with the appeal would show that there is no dispute with regard to the work done/completed by the appellants. Page 29 of the paper book is the completion certificate issued by the respondent no.4, which shows 15.03.2018 is the date of completion of the work. Page-50 of the paper book is the communication No.GWD/0265-67 dated 22.03.2022 addressed by the respondent no.4 to respondent no.3 admitting the liability of ₹54,07,500/- towards the appellants. Thus, it is a case of admitted liability on the part of the respondents.

7. In view of what has been observed hereinabove, this appeal is allowed. The judgment impugned is modified only to the extent that the respondents shall also pay the interest @ 6% per annum from the date of completion of work i.e. 15.03.2018 by the appellants till the date of release of amount. Let this exercise be initiated and concluded within four weeks from today.

8. With the aforesaid, the appeal is disposed of.

(Rajesh Sekhri)
Judge

(Tashi Rabstan)
Judge

Jammu:
08.09.2023
Raj Kumar

Whether the order is speaking? Yes/No.

Whether the order is reportable? Yes/No.