

GAHC010046292017



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/6528/2017

M/S. MANISH ENTERPRISE
REP. BY ITS PROPRIETOR- NILAMONI TAMULI, S/O. LT. DINAKANTA
TAMULI, R/O. RUDRESWAR, NORTH GUWAHATI, P.O. RANGMAHAL, P.S.
CHANGSARI, DIST. KAMRUP R, ASSAM, PIN-781030.

VERSUS

THE STATE OF ASSAM and 2 ORS.

REP. BY THE COMM. and SECY. TO THE GOVT. OF ASSAM, PANCHAYAT and
RURAL DEVELOPMENT DEPTT., DISPUR, GUWAHATI-6.

2:THE COMMISSIONER

PANCHAYAT and RURAL DEVELOPMENT DEPTT.

JURIPAR

PANJABARI

GUWAHATI-37.

3:THE BLOCK DEVELOPMENT OFFICER

BAZERA DEV. BLOCK

P.O. BAZERA

DIST. KAMRUP R

ASSAM-781121

Advocate for the Petitioner : MS. S KANUNGOE

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

28.05.2024

1. Heard Mr. K. Kalita, learned counsel for the petitioner. Also heard Mr. P. Handique, learned counsel for the respondent nos.1, 2 & 3.

2. The petitioner's case is that the petitioner supplied various materials to the Bezera Development Block, as per the orders placed by the respondent no.3. The petitioner supplied sand, chips, cement etc. to the Bezera Development Block for the period 2014 to 2016, against various schemes on the verbal orders and assurances of the respondent no.3. Though bills were submitted to the respondent no.3 amounting to Rs.11,09,024/-, the petitioner was given payment of bills amounting to Rs.3,92,154/- and only the remaining balance amount of Rs.7,16,870/- was not given to the petitioner.

3. The petitioner's counsel submits that a direction should be issued to the respondents to pay to the petitioner the balance amount of Rs.7,16,870/-.

4. Mr. P. Handique, learned counsel appearing for the respondent nos.1, 2 & 3, on the other hand submits that 20 bills were submitted by the petitioner to the respondent no.3, out of which Bill/Invoice No.550 amounting to Rs.50,040/- was cancelled, as the same was not genuine. Mr. P. Handique further submits that total amount of bills amounting to Rs.6,59,284/- has already been paid to the petitioner. Accordingly, the respondents have no outstanding liability against the petitioner.

5. I have heard the learned counsels for the parties.

6. The case of the respondents is that the petitioner had submitted bills amounting to Rs.6,59,284/- and all the claims made in respect of the genuine

bills have been paid. Only Bill/Invoice No.550 amounting to Rs.50,040/- has not been given, due to the same not being a genuine bill. This fact and the particulars of the various Bills/Invoices of the petitioner have been enumerated in paragraph nos.5 & 6 of the affidavit-in-opposition filed by the respondent no.3 on 02.05.2018. The rejoinder affidavit filed by the petitioner, on the other hand disputes the stand taken by the respondent no.3 and states that the petitioner's Bank Statement will prove the falsity of the averments made by the respondent no.3.

7. On considering the conflicting stands taken by the parties, this Court finds that there are disputed questions of facts, which cannot be decided in this writ proceeding, inasmuch as, evidence would have to be recorded. In that view of the matter, this Court is of the view that the petitioner will have to avail the alternative remedy available, by approaching the Civil Court, for redressal of his grievance by adducing evidence.

8. Consequently, as there are disputed questions of facts involved, the writ petition is dismissed, with liberty being given to the petitioner to avail of the alternative remedy available, as per law.

JUDGE

Comparing Assistant