

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_

WA. No.129 of 2024

For Appellant(s) : Mr. V. Kumar Singh, Advocate.
For Respondent(s) : None.

HON'BLE MR. JUSTICE T. AMARNATH GOUD
HON'BLE MR. JUSTICE BISWAJIT PALIT

_O_R_D_E_R_

22.01.2025

Heard Mr. V. Kumar Singh, learned counsel appearing for the appellants. None appears for the respondent.

[2] This is an appeal filed under Chapter-VIII, Rule-B (A) of the High Court of Tripura Rules, 2023 preferred against the judgment and order dated 31.05.2024 passed by the learned Single Bench in connection with WP(C) 689 of 2023.

[3] In response to NIT issued by the appellants, the respondent was awarded transport contract for two years for loading/unloading and handling of food grains /sugar/allied materials railway siding Changsari/CWC Go-down Amingaon/RH FSD Guwahati to Go-down Complex Agartala on ad-hoc basis vide appointment letter dated 31.08.2010. Upon completion of the contract, the Respondent issued reminder letters dated 04.09.2017, 12.04.2018 and 28.05.2020 to refund the pending security deposit to the respondent. In response, the Appellant vide letter dated 29.10.2020 stated that FCI has suffered loss to the tune of Rs. 1,23,11,613/- in a contract awarded to the Respondent vide appointment letter no. CONT.9/NEFR/TC/CBZ- CDR/09 dated 29.04.2009 and that the matter was *sub-judice*.

[4] The respondent approached this Court with regard to the present contract on 08.03.2022 by filing WP(C) No. 241 of 2022 and prayed for directing the appellant to refund the security deposit amounting to Rs. 2,50,000/- along with interest @ 12% p.a. This Court after hearing both the parties disposed off the WP(C) No. 241 of 2022 vide its order dated 28.06.2022 by setting aside the impugned order and the FCI appellants were directed to reconsider the claim of the Respondent in accordance with law.

[5] As per the direction of the Court, the respondent filed a representation dated 08.07.2022 before the appellant. The appellant No. 4

disposed off the said representation vide Order dated 22.07.2022 stating that the claim of the respondent was not considered and the amount of the security deposit was set off under Clause XII(e) of the contract agreement for the loss suffered by the appellant on account of abandonment of contract vide appointment letter No. ont.9/NEFR/TC/CHNG-AGT/2008 dated 17.11.2008, Appointment letter No. Cont.9/NEFR/TC/CBZ-CDR/2009 dated 29.04.2009 and Appointment letter No. Cont.9/NEFR/TC/CBZ-ADNR/09 dated 12.11.2009 and because of that the Corporation has suffered losses in the form of demurrages charges and getting the remaining work done at the risk and cost of the Respondent and the total losses was to the tune of Rs. 5,14,17,592/-.

[6] The respondent challenged the said order dated 22.07.2022 issued by the appellant No. 4 by filing another writ petition, namely, WP (C) No. 759 of 2022 before this Court for setting aside the letter dated 29.10.2020 issued by the FCI whereby the FCI appellant refused to refund the security deposit amounting to Rs. 2,50,000/- and for quashing the order dated 22.07.2022 issued by the appellant No. 4. This Court after hearing both the parties disposed off the WP(C) No. 759 of 2022 vide its order dated 02.05.2023 by setting aside the impugned order and the FCI appellants were directed to reconsider the claim of the respondent in accordance with law.

[7] The respondent vide representation dated 13.06.2023 prayed to reconsider his case as per the direction of the Court. The appellant No. 2 vide letter dated 05.09.2023 stated that the security deposit of Rs. 2,50,000/- was set off by the respondent against the losses suffered by the FCI in other transportation work amounting to Rs. 3,12,98,215/- as per clause XI(b), XII(b) and XII (e) of the contract agreement and requested the respondent to deposit an amount of Rs. 2,60,11,861/- towards balance recoverable as on date after set off. The respondent approached this Court by filing W.P(C) No. 689 of 2023 against the impugned order dated 05.09.2023. The learned Single Judge held that the impugned order dated 05.09.2023 issued by the FCI respondent be set aside and quashed. The learned Single Judge further directed the FCI to release/refund the security deposit within a period of 30 (thirty) days.

[8] In view of above and having heard the learned counsel appearing for the appellants this Court is of the opinion that the order of the learned Single Judge needs to be modified.

[9] The present appeal is preferred against the order passed in the WP(C) No.689 of 2023 dated 31.05.2024 which is one of the batches of writ petitions. The batche of writ petitions were allowed with a direction to the respondents to release the security deposits which were made by the petitioners.

[10] There is a specific contention made in the counter affidavit by the appellants herein, before the writ Court stating that Rs.2,50,000/- security deposit which has been claimed by the petitioner in the writ petition is not deposited and there is no record to that extent and therefore, the question of returning the security deposit to the petitioner in WP(C) No.689 of 2023 do not arise. Since, the said issue has not been answered; the present appeal is filed and agreed to the limited extent.

[11] On perusal of the records and the order passed by the learned Single Judge, this Court only clarifies it to the extent that the operative portion of the learned Single Judge to a limited extent, that in the event, if the petitioner Smti. Namita Pal in WP(C) No.689 of 2023 made any security deposit of Rs.2,50,000/-, the same be verified by the respondents and returned as per the order in writ petition. In the event if there is no such security deposit made by the petitioner, the question of returning the security deposit does not arise.

[12] With the above clarification, the present appeal stands disposed of. As sequel, miscellaneous application, pending if any, shall stand closed.

B. PALIT, J

T. AMARNATH GOUD, J

A. Ghosh

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