

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4004 of 2009

=====

Baleshwar Prasad Singh, son of late Ram Prasad Singh, resident of Village Lachhu Bigha, P.S. Neemchak Bathani, Dist. Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Commissioner, Gaya Division, Gaya.
3. The Collector, Gaya.
4. The District Development Commissioner, Gaya.
5. Block Development Officer, Neemchak Bathani Block, Gaya.
6. Prakhanda Pramukh, Neemchak Bathani Block, Gaya.
7. Junior Engineer, Neemchak, Bathani Block, Gaya.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : None

For the Respondent/s : Mr. J.P. Karn, AAG-9

=====

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 22-01-2015

No one appears for the petitioner.

The prayer of the petitioner in this writ application reads as follows:-

"1. That this is an application for issuance of appropriate writ or writs, order or orders, direction or directions to the Respondent Authorities to release the estimated cost under scheme no. 16/94-95 for construction of PUCKA building of Primary School Deai Block Neemchak Bathani Gram Panchayat, Bahorama (now Khukhuri) District Gaya of Rs. 1,18,580/- for two rooms and one Baramda and accordingly the Petitioner was selected and appointed as agent in Aam Sabha and accordingly on 23.9.94 the agreement was executed between the Petitioner and Respondent No.5 and thereafter the work order was given to the Petitioner vide letter no. 742 dated



27.9.94 and on the basis of the work order the Petitioner has started construction work for completion of the Primary School Building and Respondent No.5 paid 1st installment on 27.9.94 for Rs. 7,500/- for digging foundation earth work, 2nd installment of Rs. 7000/- on 17.6.95 for plinth and 3rd installment 20,000/- on 26.7.96. Brick work up-to door, total amount of Rs. 34,500/- where as the Petitioner expended total amount of Rs. 58,991/- which is evident from measurement book which was duly verified by the Junior Engineer of the Block, who was supervising the scheme no. 16/94-95 and there after neither the rest amount was released nor the excess amount nearly 25,000/- expended by the Petitioner was paid inspite of the representation filed by the Petitioner which was duly forwarded and recommended for release of the Fund for completion of the Scheme No. 16/94-95, for completion of the said Primary School building and as such the action of the Respondent Authority are quite illegal, arbitrary and malafide."

This writ application filed on 31.3.2009 with regard to the cause of action at best extending to 5.2.1997 when the final measurement of the work done by the petitioner was completed by the Junior Engineer would not have been entertained by way of a money suit.

Admittedly, the agreement, in question, contained in Annexure-1, is in relation to a non-statutory contract and, therefore, the writ application even otherwise will not be

maintainable in view of the law laid down by the Apex Court in the case of *Radhakrishna Agrawal Vs. State of Bihar* reported in *AIR 1977 SC 1496* and followed by two Division Bench judgment of this Court in the case of *United Breweries Limited Vs. The Bihar State Beverage* reported in *2013(4) PLJR 741* and in the case of *Md. Nizamuddin Vs. The State of Bihar & Ors.* reported in *2014(3) PLJR 515*.

Thus, for all these reasons, this application is held to be wholly misconceived and is, accordingly, dismissed.

(Mihir Kumar Jha, J)

Rishi/-

U			
---	--	--	--