

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

THE HON'BLE SRI JUSTICE S.V. BHATT

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Writ Appeal No.906 of 2015

Date:07.10.2015

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Between:

The State of Andhra Pradesh,

Represented by its Principal Secretary,

Irrigation & Command Area Development,

Hyderabad and others.

Appellants

And

M/s. KCL-JCCG (JV),

Hyderabad.

... Respondent

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

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Writ Appeal No.906 of 2015

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PC: (Per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

Heard learned counsel for the parties.

This writ appeal is directed against the order dated 8.12.2014 passed in W.P.M.P. No. 7389 of 2014 in Writ Petition No. 5939 of 2014. The impugned order reads thus:

“This application is filed to direct respondent No.4 to release the bank guarantee worth about Rs.2 Crores, pending the writ petition.

Though counter affidavit is stated to have been filed, the same is not on file.

The petitioner has furnished bank guarantee for Rs.2 Crores as security for repayment of the mobilization advance. It is not in dispute that the mobilization advance paid to the petitioner has been recovered by the respondents from the petitioner's running bills along with interest. It is not the pleaded case of the respondents that the bank guarantee furnished by the petitioner cover any eventuality other than recovery of mobilization advance. As the bank guarantees were furnished for a specific purpose which has been served, the respondents cannot withhold the bank guarantees on the ground of adverse vigilance report.

For the above mentioned reasons, the respondents are directed to forthwith return the bank guarantees to the petitioner.

The application is accordingly disposed of.”

Learned Government Pleader for Irrigation & Command Area Development appearing for the appellants, at the outset, invited our attention to

the prayer clause in W.P.M.P. No. 7389 of 2014, and submitted that the learned Single Judge has granted something, which was not prayed for by the respondent-writ petitioner.

We have perused the prayer made in the miscellaneous petition and we find that the respondent-writ petitioner prayed for direction to the 4th appellant to consider the representation dated 22.2.2014 submitted by the respondent-writ petitioner and release the bank guarantees for Rs. 2.00 crores, pending disposal of the writ petition.

Mr. V.R Reddy Kovvuri, learned counsel for the respondent-writ petitioner submits that they have no objection for allowing the W.P.M.P. No. 7389 of 2014 in terms of the prayer clause. On such submission being made, learned Government Pleader appearing for the appellants submits that the impugned order may be modified and directions may be issued to the 4th appellant to consider the representation dated 22.2.2014 of the respondent-writ petitioner and consider release of the bank guarantees for Rs.2.00 crores.

Having regard to the submission made by the learned counsel for the parties and considering the impugned order as well as the prayer clause in the miscellaneous petition, we are satisfied that the following order would meet the ends of justice.

“1) Pending hearing and final disposal of the writ petition, the 4th appellant shall consider the respondent-writ petitioner’s representation dated 22.2.2014, whereby, the respondent-writ petitioner seeks release of bank guarantees, as expeditiously as possible, and preferably, within a period of four weeks from the date of receipt of this order. It is open to the parties to produce copy of this order before the 4th appellant within a period of one week from today.

2) Having regard to the nature of controversy, it would be desirable for the 4th appellant to grant personal hearing to the respondent-writ petitioner before considering their representation dated 22.2.2014.”

The impugned order is modified in terms of this order.

The writ appeal is accordingly disposed of.

Consequently, pending miscellaneous applications shall also stand closed.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

7th October, 2015

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