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JUDGMENT:- (per Hon'ble Sri Justice G. Chandraiah)

This Appeal Suit is directed against the judgment and decree dated 30.07.2001 in O.S.No. 90 of 1997 delivered by the Senior Civil Judge, Nalgonda, whereby the suit filed the plaintiffs – appellants for declaration that the action of the 3rd respondent-defendant in terminating the contract under Clause 60(a) of P.S. to A.P.D.S.S. as illegal and consequential relief of decree for a sum of Rs.92,02,339/- under 12 claims described in the schedule with future interest at 18% per annum, is dismissed.

In the suit, the trial Court framed the following issues:

1. What is the work turned out by the plaintiff under the agreement of "Earth work excavation and forming embankment of Srisailem left bank canal from KM 30/0 to 33/0 under the agreement No.15/SE/84-85, dt.21.5.1984?
2. Whether there is any delay on the part of the 3rd defendant in handing over the site to the plaintiff?
3. Whether there is any delay in handing over the earth quarries to the plaintiff by the 3rd defendant?
4. Whether the AD works by other agencies were not completed in time and it caused the delay in executing the work by the plaintiff?
5. Whether there is any delay in supplying the blasting materials by the 3rd defendant to the plaintiff?
6. Whether there is any delay on the part of the 3rd defendant in classification of soils and rocks?

7. Whether there is any delay in making payments for the work done by the plaintiff?
8. Whether there is any delay on the part of the 3rd defendant in finalizing revised designs?
9. Whether the recoveries made by the 3rd defendant from the amounts due to the plaintiff are proper and correct?
10. What are the amounts due to plaintiff from the 3rd defendant for the work done by him and for that the payments were not made by the 3rd defendant?
11. Whether the plaintiff is entitled to claim Rs.2,81,800/- by way of refund of deposits by the 3rd defendant and if so what is the quantum of amounts?
12. Whether the plaintiff is entitled to recover Rs.14,92,100/- from the 3rd defendant towards the increased costs of execution for the work done beyond the agreement period?
13. Whether the plaintiff is entitled to Rs.4,12,850/- towards extra overhead charges?
14. Whether the plaintiff is entitled to Rs.7,73,763/- towards balance payment due for the consolidation as shown in claim No.5 in the plaint schedule?
15. Whether there are any wrong recoveries made by the 3rd defendant from the plaintiff, and if so, whether the amount of Rs.3,21,565/- is to be refunded to the plaintiff by the 3rd defendant?
16. Whether the plaintiff is entitled to Rs.83,250/- towards his claim of idle labour as shown in Claim No.7 of the plaint schedule?
17. Whether the plaintiff is entitled to claim Rs.21,000/- towards idle machinery as shown in Claim No.8 of the plaint schedule?
18. Whether the plaintiff is entitled to claim the amount of Rs.1,11,000/- towards refund of recoveries as claimed in Claim No.9 of the plaint schedule?
19. Whether the plaintiff is entitled to Rs.5,850/- towards claim No.10 of the plaint schedule?
20. Whether the plaintiff is entitled to claim Rs.2,42,400/- as claimed in claim No.11 of the plaint schedule?
21. Whether the plaintiff is entitled to claim interest on the amounts due to him from the defendant, and if so, what rate?
22. Whether the action of the 3rd defendant in terminating the contract under Clause 60(a) of P.S. to A.P.D.S.S. is illegal?
23. To what relief?

The trial Court, by judgment dated 30.07.2001, while considering all the issues, held that the plaintiffs are not entitled to any relief, and accordingly, dismissed the suit with costs.

Along with the present appeal, the plaintiffs have filed A.S.M.P.No. 22967 of 2001 seeking stay of all further proceedings in pursuance of the decree and judgment dated 30.07.2001 delivered in O.S.No. 90 of 1997, and this Court, by order dated 19.02.2002, while ordering notice, granted interim stay and directed the appellants to pay costs in two installments within specific time-frame. Thereafter, the matter underwent several adjournments. On 11.12.2015, with the consent of the learned counsel for both the parties, this Court directed both the parties to appear for mediation before the High Court Mediation Centre on 23.12.2015. Subsequently, on 19.04.2016, at the request of the learned counsel for both the parties, the matter was adjourned to this day.

Today, when the matter is taken up for hearing, the learned Advocate General appearing for the respondents has placed on record a copy of the order issued by the Government in G.O.Rt.No.271, dated 28.10.2014 and submitted that the Government have reconstituted a

committee for the purpose of attempting conciliation in arbitration cases filed by the Contractors against the Government. He has further submitted that having regard to the fact that the committee is reconstituted, both the parties may be directed to represent before the Committee about the grievance if any by virtue of the common judgment dated 08.06.2007 delivered by a Division Bench this Court in C.M.A.No.1412 and Cross-Objections 1466 of 1989 and batch wherein it is observed as under:

“In this process, an attempt can be made by directing the respondents-claimants to approach the Principal Secretary of the concerned department by filing appropriate comprehensive representation on behalf of the claimants. On filing of which the said authority shall hear both sides after giving notice and opportunity and make an effort to conciliate and settle the claims. The respondents-claimants shall file the said representation within a period of three weeks from today and the Principal Secretary of the said authority shall conciliate the meetings and try to settle the matter within a period of three months thereafter.

The parties are at liberty to approach this Court either by way of filing final settlement which would be arrived at between the parties or the failure report, on the basis of which necessary orders will be passed in terms of settlement or disposed of the matter on merits, if it warrants.

Subject to above, all the matters are disposed of. It is needless to mention that the interim order, which has been in vogue all along pending these proceedings, shall continue to remain in force till the final disposal of the proceedings in the conciliation. “

The submissions made the learned Advocate General are not controverted by the learned counsel for the appellants.

Having carefully perused the material placed on record and in view of the submissions made by the learned Advocate General and following the judgment of this Court in C.M.A.No.1412 and Cross-Objections 1466 of 1989 and batch, we are inclined to dispose of the appeal suit with the following directions:

“Both the parties are directed to make representation before the Committee reconstituted under G.O.Rt.No. 271, dated 28.10.2014, and on such representation being made, the

re-constituted Committee shall follow the due process of law by affording ample opportunity to both the parties in the process of conciliation and pass appropriate orders in accordance with law. However, as this matter pertains to the year 2001, and so much of time has elapsed, and it is a dispute between the contractor and the Government with regard to the claims made by the contractor in respect of the works executed by them, the Committee is directed to dispose of the matter within a period of six months from the date of receipt of a copy of this order. During the course of conciliation, both the parties are directed to co-operate with the Committee for early disposal of the case within the time stipulated by this Court. Till such time, the interim stay granted by this Court on 19.02.2002 shall remain in force.

It is needless to mention that if, for any reason, the parties are not agreeable to the decision that may be taken by the Committee, it is always left open to the parties to approach this Court in terms of the order passed by this Court on 08.06.2007 in C.M.A.No.1412 and Cross-Objections 1466 of 1989 and batch.”

Subject to the above directions, this Appeal Suit is disposed of. No order as to costs.

As a sequel to the disposal of the Appeal Suit, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

CHANDRAIAH, J
25.04.2016

G.

ANIS, J

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