

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.19 of 2015

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The State Of Bihar through the Principal Secretary And Others
..... Petitioners.

Versus

M/s Kumar Construction & Development (p) Ltd
..... Opposite Party.

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Appearance :

For the Petitioners : Mr. K.P. Gupta
Mr. Binod Kumar
For the Opposite Party : Mr. Rajendra Narayan
Mr. Manish Sahay
Mr. Anil Kumar Sinha

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

11 12-05-2017 Counter affidavit is filed on behalf of the opposite party.

2. Heard learned counsel for the State-petitioners as well as learned counsel for the opposite party.

3. The petitioners have preferred this Civil Revision Application against the award dated 20.10.2014 passed by the Chairman and Member of the Bihar Public Works Contracts Disputes Arbitration Tribunal in Reference Case No.23 of 2013 and the only grievance of the petitioners is that the learned Tribunal wrongly made clause 10 CC of the agreement applicable in the facts of the present case whereas clause 10 CA of the agreement dated 05.02.2009 was applicable in the facts of the case.



4. The certain facts are admitted. It is an admitted position that an agreement dated 05.02.2009 was executed between the parties for completion of certain works and a dead line of 12 months from the date of execution of the agreement for completion of the aforesaid works was fixed. However, the petitioners could not succeed to acquire the lands for the work and, thereafter, they extended the period of completion of the aforesaid works time to time and, lastly, the opposite party started the work but when the petitioners failed to assist the opposite party, the opposite party prayed before the petitioners for closer of the agreement, which was accepted vide letter no.1911 dated 28.11.2013. Thereafter, the dispute of the parties was referred to the Bihar Public Works Contracts Disputes Arbitration Tribunal, Patna, and the learned Tribunal passed the impugned award directing the petitioners to pay Rs.51,18,652/- with simple interest @ 10% per annum from the date of award till realization to the opposite party and the learned Tribunal also held that the opposite party shall be entitled to cost and counsels fee as per schedule.

5. The petitioners challenged the aforesaid award on the ground that the original agreement contained the period of completion of work only 12 months and Section 10CC of the



agreement would be applicable.

6. Learned counsel appearing for the opposite party submits that the government has already paid the amount of the award and the cost except the interest of the amount of the award and, therefore, this Civil Revision Application has become infructuous.

7. Clause 10CC of agreement dated 05.02.2009 goes to show that the aforesaid clause is applied when the period for completion of work is more than 18 months. However, in the present case, it is an admitted position that the agreement was executed on 05.02.2009 and the work was to be completed within 12 months from the date of execution of agreement but, later on, the aforesaid period was extended time to time and, therefore, the aforesaid fact goes to show that period of completion of work was extended for more than 18 months and, therefore, the learned Tribunal has rightly taken clause 10CC of the agreement for calculation of the dues of the opposite party. Moreover, the State has already made payment of the amount of the award to the opposite party except interest and, therefore, in my view, this Civil Revision Application does not have any merit and is liable to be dismissed on admission stage itself.

8. Accordingly, this revision petition stands dismissed.



(Hemant Kumar Srivastava, J)

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