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**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition No.399 of 2001**

Calcutta Iron and Steel Company, a partnership firm duly registered under the relevant provisions of the Indian Partnership Act, 1932 having its Principal place of business at 111/119 Thakurdwar Road, Mumbai - 400002, through its duly constituted Attorney Mr.K.K.Bansal

**----Petitioner****Versus**

1. Steel Authority of India Limited (A Government of India enterprises) having its registered office at Ispat Bhavan, Lodhi Road, New Delhi-110003
2. The Managing Director, Steel Authority of India Limited, Bhilai Steel Plant, Bhilai, District Durg (CG)

**---- Respondents**


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| For Petitioner  | : | Mr.V.V.S.Murthy, Senior Advocate with<br>Mr.Shrawan Agrawal, Advocate |
| For Respondents | : | Dr.N.K.Shukla, Senior Advocate with<br>Ms Priya Mishra, Advocate      |

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**Hon'ble Shri Justice Sanjay K. Agrawal****Order on Board****12/7/2017**

1. The Steel Authority of India issued release order in favour of the petitioner on 15.4.2000 (Annexure P/1) for supply of used and rejected cncast steel rollers. The validity of the period of sale order was from 15.4.2000 to 31.3.2001. Case of the petitioner is that the petitioner has deposited ₹ 28,78,040/- for lifting 384.78 metric tons of the contracted goods, but only 118.10 metric tons were supplied to the petitioner and remaining contracted goods were not supplied though petitioner was ready and willing

to accept the same.

2. The petitioner has filed this writ petition claiming that the respondent-Steel Authority of India be directed to supply 266.68 metric tons used/rejected steel rollers to the petitioner as it was not supplied to him.
3. Return has been filed by the respondents stating inter-alia that 485.150 metric tons used/rejected steel rollers have been supplied to the petitioner i.e. more than 100 metric tons of the contracted goods.
4. Learned Senior Counsel appearing for the petitioner would submit that the respondent-Steel Authority of India is absolutely unjustified in not supplying 384.78 metric tons used/rejected steel rollers to the petitioner.
5. On the other hand, learned Senior Counsel for the respondents would submit that contracted goods were supplied to the petitioner and at best, it is the case of breach of contract and remedy is available to the petitioner to file a suit for specific performance of contract. The writ petition as framed and filed is not maintainable as disputed question of fact is involved.
6. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.

7. It is the case of the petitioner that contract entered into by way of sale order dated 15.4.2000 has not been complied with and there is breach of contract on the part of the respondent-Steel Authority of India.
8. The legal position in this regard is no longer res-integra. In the matter of **National Highways Authority of India vs. Ganga Enterprises and another**<sup>1</sup>, the Supreme Court has clearly held that in case of claim arising out of breach of contract, the writ petition is not an appropriate remedy for impeaching contractual obligations.
9. The above-stated decision has been relied upon by the Supreme Court in the matter of **Orissa Agro Industries Corporation Ltd and others Vs. Bharati Industries and others**<sup>2</sup> and held as under:-

“11. In the instant case the High Court has itself observed that disputed questions of fact were involved and yet went on to give directions as if it was adjudicating the money claim in a suit. The course is clearly impermissible. (See: General Manager, Kisan Sahkari Chini Mills Ltd., Sultanpur U.P. v. Shatrughan Nishad and others<sup>3</sup>, Rourkela Shramik Sangh v. Steel Authority of India Ltd. and Another<sup>4</sup>).

12. In National Highways Authority of India v. Ganga Enterprises and Another (supra), it was observed by this Court that the question whether the writ petition was maintainable in a claim arising out of a breach of contract should be answered first by the High Court as it would go to the root of the matter. The writ pe-

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1 (2003) 7 SCC 410

2 AIR 2006 SC 198

3 (2003) 8 SCC 639

4 (2003) 4 SCC 317

petitioner had displayed ingenuity in its search for invalidating circumstances; but a writ petition is not an appropriate remedy for impeaching contractual obligations. (See: Har Shankar and others etc. v. The Deputy Excise and Taxation Commissioner and others<sup>5</sup> and the Divisional Forest Officer v. Bishwanath Tea Co. Ltd.<sup>6</sup>.)

10. Similarly, in the matter of **Gujarat Maritime Board Vs. LandT Infrastructure Development Projects Ltd. and Anr.**<sup>7</sup> the Supreme Court has held that where a breach of contract is complained of, the party complaining of such breach may sue for specific performance of the contract and held as under:-

“10. 70.6. Ordinarily, where a breach of contract is complained of, the party complaining of such breach may sue for specific performance of the contract, if contract is capable of being specifically performed. Otherwise, the party may sue for damages.”

11. In view of the aforesaid submission, the writ petition involves disputed question of fact arising out of breach of contract and therefore, the writ petition as framed and filed is not maintainable and it is dismissed as not maintainable. However, this will not bar the petitioner to proceed in accordance with law. No order as to cost(s).

Sd/-  
(Sanjay K.Agrawal)  
Judge

B/-

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5 AIR 1975 SC 1121  
6 AIR 1981 SC 1368  
7 AIR 2016 SC 4502