

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 5845 OF 2014**

I.K. Business Service,
Through Prop. Imtiyaz Abou Sattar
Khalapuri

....Petitioner.

Vs.

The Konkan Railway Corporation Ltd. & Ors.

....Respondents.

Mr. R.M. Haridas i/by Kishore S. Patil for the Petitioner.

Ms. Kiran Bagalia for Respondent Nos. 1 to 3.

Mr. G.H. Keluskar for Respondent No.4.

**CORAM : ANOOP V. MOHTA AND
MANISH PITALE, JJ.**

DATE : 8 NOVEMBER 2017.

FINAL ORDER:-

The Petitioner has invoked Article 226 of the Constitution of India by filing the present Writ Petition on 23 June 2014 and thereby challenged the award of contract by Respondent Nos. 1 to 3 based upon tender notice dated 7 April 2014. The contract/tender was awarded to Respondent No.4 on 20 June 2014 for the term upto 3 years i.e. till June 2017.

2 There is no interim relief and/or any protective order passed in favour of the Petitioner. The statement is made by the

learned counsel appearing for Respondent Nos. 1 to 3 that in pursuance to the award of contract, the concerned Respondent No.4 has completed the work and the basic contract period is already over. We are not concerned with the subsequent extension to the contract period, even if any, to decide the present Writ Petition.

3 The learned counsel appearing for the Petitioner, basically contended that there was various misrepresentation made by Respondent No.4, which goes to the root of the award of such contract. Considering the above admitted position on record, the case of misrepresentation and fraud, even if any, which is not accepted/admitted by the Respondents, in no way can be gone into in the present Writ Petition. As there is a question of fact involved, the remedy is elsewhere.

4 Therefore, taking overall view of the matter, we see there is no reason to keep this Petition pending. Writ Petition is dismissed. There shall be no order as to costs.

(MANISH PITALE, J.)

(ANOOP V. MOHTA, J.)