

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

Writ Appeal No.1707 of 2017

JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P.No.34655 of 2017 dated 20.10.2017. The appellant herein is the petitioner in the writ petition wherein they sought a mandamus to declare the action of the respondents in not making payment of the value of the additional items of work/deviated items of work in addition to the works covered by the agreement dated 10.07.2015, on the ground that there has been no supplemental agreement covering the said additional items of work, as being arbitrary and illegal. A consequential direction was sought to the respondents to forthwith make payment of the value of the additional items of work/deviated items of work, which are already executed by the appellant-writ petitioner over and above the work covered by the agreement dated 10.07.2015, as per the prevalent Scheduled Standard Rates with interest at 18% per annum.

In the order under appeal the Learned Single Judge observed that the questions whether the appellant-writ petitioner was under an obligation to execute the additional/deviated works under the agreement and what rights and liabilities flowed out to the agreement were matters concerned with the clauses relating to the contract; a similar view was taken in **Lanco Infratech Limited vs. Power Finance Corporation**¹; the jurisdiction of this Court cannot be invoked for deciding the present dispute with regards the entitlement of the appellant-writ petitioner for payment of the additional works/deviated items, as there was an alternative remedy for such purpose.

¹ 2017(5) ALD 556

Sri Vedula Venkata Ramana, learned Senior Counsel appearing on behalf of the appellant-writ petitioner, would submit, not without justification, that, in **Lanco Infratech Limited**¹, the relief sought for was for payment of amounts due under a contract; and it is in such circumstances, that a Learned Single Judge had held that, since there was no element of public law, no relief could be granted in the writ petition.

While it cannot be held that, in all cases, where there is a breach of the terms and conditions of the agreement, or where the relief sought for is based on the terms and conditions of a contract, a writ petition would not lie, the question whether a writ petition should be entertained, to examine non-statutory contractual disputes, is a matter of discretion of this Court exercising jurisdiction under Article 226 of the Constitution of India. As it is not in dispute that the appellant-writ petitioner has the remedy of agitating their claims, as raised in this Writ Petition, before a competent Civil Court, it cannot be said that exercise of discretion by the Learned Single Judge, not to entertain this writ petition, is so patently illegal as to justify interference in an intra-court appeal under Clause 15 of the Letters Patent. We see no reason, therefore, to entertain the writ appeal.

Leaving it open to the appellant-writ petitioner to avail such remedies as are available to them in law, the Writ Appeal is dismissed. Miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(ABHINAND KUMAR SHAVILI, J)

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Date: 14.11.2017