IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11923 of 2013

==

Jannat Builders (P) Ltd. through its Director, Jahane Jannat Khan Son of Abdul Qaiyum Khan 967/A, Main Road, Vill. & P.O. Bara, District Gazipur (U.P.)

.... Petitioner

Versus

1. The Union of India, through the Divisional Railway Manager, E.C. Railway, Danapur
2. The Senior Divisional Engineer, E.C. Railway, Danapur
3. The Divisional Engineer, E.C. Railway, Danapur
4. The Assistant Divisional Engineer, E.C. Railway, Danapur

.... Respondents

==

Appearance :

For the Petitioner : None

For the Respondents : Mr. Bindhyachal Singh
Mr. Manish Prakash, Advocate.

==

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 01-08-2018

The present writ petition has been filed for the following reliefs –

> *"(I) To issue a writ in the nature of mandamus for commanding the respondents to make payment of bill of Rs. 48,07,062.54 (Rupees forty eight lacs seven thousand sixty two and fifty four paise only) as well as extra work of Rs. 9,64,224.86 (Rupees nine lacs sixty four thousand two hundred twenty four and eighty six paise only) to the petitioner. Some extra work has been done by the petitioner on verbal order of the respondents.*
>
> *(II) To direct the respondents to investigate the work done by the petitioner and pay the aforesaid amount of bill as early as possible.*

(III) To direct the respondents to pay the compensation to the petitioner because due to negligency of the respondents. Petitioner suffered heavy economical loss.
(IV) Any other relief or reliefs."

2. None appears on behalf of the petitioner despite repeated calls. A perusal of the averments in the writ petition discloses that the petitioner has claimed payment of bill of Rs. 48,07,062.54 as well as for extra work of Rs. 9,64,224.86 relating to work claimed to have been done for the respondent-Railway pursuant to agreement. It has further been claimed that the extra work done has not been entered in the measurement book by the respondents and moreover the respondents are not permitting the petitioner to do the work despite the petitioner's willingness.

3. Learned counsel for the respondents appears and has been heard. The respondents in paragrapah-14 of the counter affidavit have taken the stand that 6^{th} and final bill amounting to Rs. 97,779.62 duly accepted by the agency with no claim for the work done by the petitioner was submitted to associate accounts for payment after deduction of income tax such as Education Cess, BST etc. It is also been stated in the counter affidavit that the petitioner was informed by letter dated 24.05.2012 to be present at site for witnessing the final measurement on 06.06.2012 but he did not turn up.

Accordingly, an ex-parte measurement was made and the aforesaid 6th and final bill was submitted for Rs. 97,779.62.

4. Having regard to the averments in the writ petition and the counter affidavit, this Court is not inclined to interfere in the matter. The stand of the respondents that 6th and final bill was prepared for Rs. 97,779.62 has not been controverted and no rejoinder to the counter affidavit has been filed.

5. The writ petition accordingly stands dismissed.

(Vikash Jain, J)

Md. Ibrarul/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	04.08.2018
Transmission Date	N.A.