

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-70-2018 (O&M)

Date of decision:- 09.01.2018

Ek Onkar Builders & Contractors Private Limited
...Petitioner

Versus

State of Punjab and others
...Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, CHIEF JUSTICE
HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present:- Mr. Aman Kashyap, Advocate,
Mr. Sahil Sharma, Advocate,
for the petitioner.

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S.J. VAZIFDAR, C.J. (ORAL)

The petitioner seeks an order directing the respondents to permit it to complete the construction work by extending the time by further three weeks. The petitioner's case is that the respondents' engineers had afforded it a personal hearing and had recommended an extension of time for three months.

2. The disputes that arise in this matter cannot possibly be entertained in a petition under Article 226 of the Constitution of India. Firstly, there are disputed questions of fact. For instance, the petitioner contends that it has completed 90 per cent of the work, whereas the respondents in the impugned order dated 27.09.2017 contend that only 60 per cent of the work has been completed. The effect of the tender notice issued by the respondents for the balance work to the extent of only 10 per cent is a different matter. For instance, a part of the balance work may be carried out in-house.

3. In any event, what the petitioner essentially seeks is a decree for specific performance of a contract of construction which at least in normal circumstances cannot be entertained especially in a writ petition. This would involve

this Court having to adjudicate whether the petitioner is entitled to a further extension of time or not. The time has already been extended in the past.

4. The petitioner in any event is not prejudiced as it can either file a claim for damages and/or compensation and/or for recovery of amounts that may be retained by the respondents. If on the other hand the respondents file any proceedings for damages, the petitioner can always defend the same.

5. The petition is accordingly disposed of.

Needless to clarify that we have expressed no views whatsoever on the merits of the contentions raised between the parties. The same would be decided in appropriate proceedings that may be adopted by either of the parties.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(AVNEESH JHINGAN)
JUDGE

09.01.2018
Amodh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No