

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.197 of 2017

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1. The State Of Bihar, through the Principal Secretary, Road Construction Department, Government of Bihar, Patna
 2. The Principal Secretary, Road Construction Department, Government of Bihar, Patna
 3. The Engineer in Chief, Road Construction Department, Government of Bihar, Patna
 4. The Chief Engineer, (Yatayat), Road Construction Department, Darbhanga
 5. The Superintending Engineer, Road Construction Department, Road Circle, Saharsa
 6. The Executive Engineer, Road Construction Department, Road Division, Saharsa

Respondent/ Revisionist Petitioners

Versus

M/s Madan Kumar Singh, a partnership firm having its registered office at Naya Bazar, P.S.- Sadar Saharsa, District Saharsa through its one of the partners, namely, Sri Gopal Kumar Singh, aged about 36 years, son of Sri Ram Nandan Prasad Singh, Resident of Naya Bazar, P.S. Sadar Saharsa, District, Saharsa

Petitioner / Claimant Opposite Party

Appearance :

For the Petitioner/s : Mr.Dinesh Maharaj
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 24-04-2019

I.A. No.7348 of 2017:

This interlocutory application has been filed for condoning the delay of 5 months 17 days in preferring this revision application.

For the reasons as stated in the interlocutory application, this court is satisfied that petitioners were prevented from sufficient cause from filing this revision petition within time. As such, the delay in filing the revision petition is



condoned.

I.A. No. 7348 of 2017 stands allowed.

Civil Revision No.197 of 2017:

Heard.

This civil revision application has been filed by State of Bihar and its authorities against the Award dated 20.1.2017 passed in Reference Case No.83 of 2016 passed by the Bihar Public Works Contracts Disputes Arbitration Tribunal, Patna (hereinafter referred as “the Tribunal”) whereby the Tribunal has allowed claim of opposite party for payment of Rs.46,46,457/- with simple interest @ 10% per annum from the date of filing.

Claimant /opposite party and respondents/petitioners had entered into agreement no.10 SBD of 2010-11 to execute the work of N.H. 107 refugee colony to Tiwari Tola, Jhappa Tola Road, total length 5.65 kilometer for the year 2010-11 at estimated cost of Rs.4,62,18,217/- and date of commencement was 28.8.2008 and date of completion was within 9 months, i.e. 27.5.2011.

Case of claimant / opposite party before the Tribunal was that while executing the work the Dumri Pool collapsed and in place of completing the work within 9 months, it was completed on 5.1.2013. Project was also delayed as there was



encroachment at working site and Executive Engineer wrote to Electrical Executive Engineer, Saharsa to remove the electric pole and also to SDO, Sadar Saharsa to remove the encroachment from the work site and same was removed after 22 months, i.e., 25.6.2012 and for aforesaid reasons, the Engineer-in-Chief extended the time of completion till 5.1.2013 by letter dated 26.4.2013. Technical approval of the work was accorded on 10.1.2011 after 5 months from the date of commencement which was also one of the prime reasons in delay of execution of work.

Completion of work was delayed due to reasons beyond the control of claimant and it was not attributable to him. After completion of work, claimant / opposite party on 28.5.2013 asked for payment of price escalation under the provisions contained in Clause 10 CC of the SBD but same was returned to claimant to make a claim under 10CA. Claimant / opposite party made claim under different heads. Claimant made a claim for payment of price escalation under Clause 10CC of Rs.46,46,547/- with simple interest @ 10% per annum from date of filing.

Respondents / petitioners in their reply before the Tribunal stated that claimant completed the work after more



than 17 months and time extension was granted considering damage of Durmi Pul, Assembly Election, 2010 and encroachment of 400 meter on the work site. Claimant was paid price escalation as per Clause 10 CA of SBD, i.e., for bitumen, cement and steel and as schedule time for completion was 9 months only, his claim in the head of labour, tools and plant and other materials was denied as same was not payable and he has rightly been paid price escalation as per Clause 10 CA of SBD and has denied claim of petitioner of Rs.46,46,547 for price escalation as per 10CC of SBD. Claimant has already been paid price escalation as per Clause 10 CA of SBD.

On consideration of case of both parties, the Tribunal held that the delay in completion of work were not attributable to claimant. Extension of time for delay in completion of work is granted under Clause 5 and 5.2 of SBD agreement. Engineer – in – Chief by letter dated 26.4.2013 granted extension of time till 5.1.2013. Tribunal relying upon a judgment of Apex Court in case of J.G. Engineer (P) Limited Vs. Union of India since reported in [2011 Vol.5 SCC 758] has held that in terms of aforesaid judgment, it is clear and evident that once the claimant has been granted extension of time then it is incumbent upon the respondent/petitioners to afford the claimant the benefit of



Clause 10 CC of SBD and found claimant / opposite party to be entitled for payment of price escalation under Clause 10 CC for the amount of Rs.46,46,457/- with simple interest @ 10% per annum from the date of filing.

After hearing the counsel for the petitioners, this Court does not find any infirmity or jurisdictional error in the Award passed by Bihar Public Works Contracts Disputes Arbitration Tribunal, Patna requiring any interference by this Court in its revisional jurisdiction.

Accordingly, the revision petition is dismissed.

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.06.2019
Transmission Date	NA

