

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.55 of 2018

1. The State of Bihar through The Secretary, Rural Works Department, "Vishweshwarraiya Bhawan". Bailey Road, Patna
2. The Engineer-in-Chief, Rural Works Department, 'Vishweshwarraiya Bhawan', Bailey Road, Patna.
3. The Chief Engineer-I, Rural Works Department, 'Vishweshwarraiya Bhawan', Bailey Road, Patna.
4. The Superintending Engineer, Rural Works Department, Works Circle, Biharsharif (Nalanda).
5. The Executive Engineer, Rural Works Department, Works Division, Biharsharif (Nalanda).

... .. Petitioner/s

Versus

Santosh Kumar, S/o Sri Rameshwar Prasad, R/o Quamruddinganj, P.O. Biharsharif, P.S. Laheri, Muradpur, District Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 17-05-2019

Heard the parties.

2. This civil revision petition has been filed on behalf of State of Bihar and its authorities for setting aside the award dated 25.04.2016 passed in Reference Case No. 86/2012 by which the learned Tribunal has allowed the claim of claimant/opposite party to get refund of Rs. 1,49,347/- with 10 % interest from the date of filing of reference case.

3. Briefly stated the facts of the case is that claimant/opposite party was awarded work of improvement of



road from N.H.- 82 to Sarvabhi Nagar Fathepur under MMGSY for the year 2007-08 for which an agreement was executed between both the parties on 09.05.2007 being Agreement No. 06F2 of 2007-08 for agreement value of Rs. 1,04,23,677/- and date of commencement of work was 09.05.2007 and was to be completed within 6 months i.e. 08.11.2007.

4. Claimant/opposite party after execution of agreement and getting the work order started the work in full swing but execution of work was hampered by protest made by local villagers. Shortage of labour, closure of local quarry and rates of material had enhanced, agreement was entered in monsoon period, no co-operation was extended by the authorities and no regular payment of work done was made. Claimant/opposite party stated that he completed work of more than 35 % and requested authorities to revise the estimate for the balance work after closing and to make up to date payment of work done but no action was taken on his request he filed a writ petition in Patna High Court for refund of security deposit and all admissible dues after closing the agreement and as per direction of this Court petitioner represented before the Superintending Engineer however by order dated 11.02.2000 he rejected the claim of petitioner and by order dated 20.04.2010



passed by Executive Engineer agreement was rescinded under Clause 3(c) of the agreement and the security deposit was forfeited.

5. Claimant/opposite party prayed before the Tribunal to set aside the order dated 20.04.2010, to refund security deposit including earnest money to refund deducted amount for extension of time as well as to set aside 5th negative final bill amounting to Rs. 1,66,043/-.

6. Respondent/petitioner in their reply stated that claimant/opposite party had done work of Rs. 22,78,200/- out of total agreement value of Rs. 1,04,23,677/- which is about 22 % of total work value. Claimant/opposite party never raised any complaint of any hindrance at work site, estimate were framed as per specification and guidance of the department. The rate quoted at the time of tender is applicable for full period of completion of work. Claimant/opposite party was granted sufficient time to complete the work but on his failure the department was left with no option but to terminate the contract by order dated 20.04.2010.

7. The Tribunal has held that petitioner/respondent have terminated the contract by order dated 20.04.2010 under Clause 3 (c) and forfeited the security deposit but have not



followed provision as per Clause 3 (c) of the agreement before rescinding the contract and has held that termination of agreement is not in consonance with Clause 3(a) of the agreement and as such not sustainable.

8. Tribunal has held that petitioner is entitled for refund of security money of Rs. 5,25,000/- as well as refund of Rs. 1,13,910/- deducted as security deposit from running account bills and for refund of Rs. 1,49,347/- deducted for extension of time from running accounts bill along with 10% simple interest per annum from the date of filing of claim case i.e. 01.10.2012.

9. After hearing the counsel for the petitioner and perusing the order passed by the Tribunal this Court does not find any infirmity or error in the award passed by the Tribunal requiring any interference by this court in its revisional jurisdiction, as such this Court does not find any merit in this revision petition and it is accordingly dismissed.

(S. Kumar, J)

Rajiv/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.06.2019
Transmission Date	NA

