

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1461 of 2019**

Vijeta Construction Company Being A Proprietorship Firm Through Its Proprietor Basant Bagade, Son Of Late Nathuji Bagade, Aged About 58 Years, Having Its Office Address At Opposite M.L.A. Rest House, Tagore Nagar, Raipur Chhattisgarh.

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Public Works Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, (Naya Raipur) Chhattisgarh.
2. The Chief Engineer, Public Works Department, Sirpur Bhawan, Raipur Chhattisgarh.
3. The Executive Engineer, Public Works Department, Raipur Chhattisgarh.
4. The Superintending Engineer, Public Works Department, Raipur Chhattisgarh.
5. Allahabad Bank, A Banking Company Duly Incorporated Under The Relevant Provisions Of The Banking Companies (Acquisition And Transfer Of Undertakings) Act, Inter - Alia Amongst Other Branches A Branch Office At Telebandha, Raipur, Through The Branch Manager, Allahabad Bank, Telebandha Branch, Telebandha, Raipur Chhattisgarh.
6. Oriental Bank Of Commerce, A Banking Company Duly Incorporated Under The Relevant Provisions Of The Banking Companies (Acquisition And Transfer Of Undertakings) Act Inter Alia Amongst Other Branches A Branch Office At G.E. Road, Raipur, Through The Branch Manager, Oriental Bank Of Commerce, G.E. Road, Raipur Chhattisgarh.
7. Karnataka Bank Ltd., A Banking Company Duly Incorporated Under The Relevant Provisions Of The Banking Companies (Acquisition And Transfer Of Undertakings) Act, Inter - Alia Amongst Other Branches A Branch Office At Fafadih Chowk, Raipur, Karnataka Bank Ltd., Through Its Branch Manager, Fafadih Chowk, Raipur Chhattisgarh.

---- **Respondents**

For Petitioner : Mr. Ashish Surana, Advocate

For State : Mr. Rahul Jha, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

18.04.2019

Heard.

1. The present petition is against the letter dated 05.04.2019. It is contended that the FDR which was in the name of Executive Engineer which were given for performance guarantee are being encashed by the Executive Engineer despite the fact that the petitioner Vijeta Construction is ready to

perform the work. It is submitted that certain dispute is pending in between the parties, however, the representation though was filed has not been decided.

2. Perusal of the letter which is sought to be stayed Annexure P-1 would show three different FDR has been shown are apparently appears in the name of the Executive Engineer, Public Works Department, Bridge Construction Division. If the FDR were in name of the Executive Engineer then in such case they would be holder in due course and privity of contract would be in between the Executive Engineer and the Bank. If the petitioner claims that the said FDR were given as security for work contract and further when alleges they are being encashed for breach of any condition in such condition it would be a disputed question of facts. The FDR holder, Executive Engineer, being the holder in due course the payment to it by third party cannot be stopped and in such case the rival claim of parties are required to be decided in a properly constituted civil suit or any other proceeding available under the law. The petition therefore has no merit and is accordingly dismissed.

Sd/-
Goutam Bhaduri
Judge