Sr. No. 266

HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU

OWP No.1189/2016
IA 01/2016
CM 4413/2019

(Through video conferencing)

M/s. Cube Construction Engineering Ltd. .....Petitioner(s)/Appellant(s)

Through :- Ms Yashodhan Thakur, Adv.

V/s

Ghulam Mohd. & anr. .....Respondent(s)

Through :- Mr. M.P. Gupta, Adv.

Coram: HON'BLE MR. JUSTICE TASHI RABSTAN, JUDGE

ORDER

HIGH COURT JAMMU & KASHMIR

1. The facts as projected by the petitioner-Company is that after competing in the process of tendering, the petitioner company was allotted various work contracts for construction of roads in District Doda. It is averred that while the petitioner/company had been constructing various roads in the Doda District, respondent no. 1 filed an application under section 15 of the Payment of Wages Act before learned Assistant Labour Commissioner, Doda for the recovery of Rs.3,62,000/-along with compensation of Rs. 31000. It is averred that the petitioner-Company is Gujarat based and the respondent No.1 is not allowing the petitioner-Company to affectively contest the aforesaid application at Doda, as such the petitioner-Company has filed the instant writ petition for transfer of the application pending before the Assistant Labour Commissioner Doda to any other court of competent jurisdiction at Jammu.

2. This Court vide order dated 11.08.2016 stayed the proceedings pending before the Authority under payment of Wages Act (Assistant Labour Commissioner) Doda.

3. During the pendency of present writ petition, the petitioner-Company filed CM 4413/2019 seeking continuation of interim order dated 11.08.2016 and also quashment of order dated 14.05.2019 passed by the Court of Assistant Labour Commissioner, Doda, whereby cost of Rs. 10,000/- has been imposed upon the petitioner (non- applicant no.2 before the ALC, Doda) for setting aside the Ex-parte order dated 30-06-2014. It is averred that the exparte proceedings cannot be initiated against the petitioner/non-applicant no. 2 because the petitioner had preferred the instant writ petition before this Court, in which this Court has granted stay on the proceedings pending before the ALC, Doda. It is further averred in the application that the ALC, Doda as such cannot direct the payment of the cost against the petitioner/non- applicant no. 2 for setting aside ex-parte order dated 30-06-2014. Further, it is averred that although the petitioner-Company was otherwise being represented through its authorised representative before the court below, but since there was a stay order on the proceedings pending before the Authority under the Payment of Wages Act/Assistant Labour Commissioner, Doda, as such there was no reason for the petitioner to be present in the proceedings initiated in the court below.

HIGH COURT JAMMU & KASHMIR

4. Objections to the writ petition have been filed by respondent No.1 contending therein that the averments made in the writ petition are false, frivolous and baseless.

5. In an identical issue which came up before a coordinate Bench of this Court in OWP No.1657/2017 and other connected matters, titled as, GVPR Engineers Ltd. vs Bashir Ahmed & others, the coordinate Bench while dismissing the writ petitions vide judgment and order dated 30.11.2018 has held that the claim put forth by the petitioners therein is totally misconceived on the ground that the case in hand was not in isolation as there were number of other cases pending against the petitioners therein.

6. When confronted with this position, learned counsel for petitioner restricted her arguments only to the imposition of costs of Rs.10,000/-.

7. Since the judgment dated 30.11.2018 (supra) squarely covers the issue-in-hand, as such I deem it proper to dismiss the writ petition along with connected IA. Ordered accordingly. However, the order dated 14.05.2019 passed by the Assistant Labour Commissioner, Doda is modified and the cost imposed is reduced to rupees one thousand only which is to be deposited before the ALC, Doda on the next date of hearing fixed before the ALC, Doda. It is further ordered that the ALC, Doda shall allow the petitioner-Company to participate in the proceedings pending under section 15 of the Payment of Wages Act. CM 4413/2019, accordingly, stands disposed of.

8. Interim direction shall stand vacated forthwith.

(TASHI RABSTAN)
JUDGE

JAMMU
24.11.2020
(Anil Sanhotra)

ANIL SANHOTRA
2020.11.27 15:36
I attest to the accuracy and
integrity of this document