

07.10.2021

Ct. No.13

Sl. No.15

akd

W.P.A. 16756 of 2021 [via video conference]

[Purulia Metal Casting Pvt. Ltd. & Anr. -Vs- Damodar Valley Corporation & Ors.]

Mr. Debabrata Saha Roy

Mr. Neil Basu

... for the petitioners

Mr. Jaydip Kar

Mr. Prasun Mukherjee

... for the DVC

By order dated 14th August, 2020, the Hon'ble Supreme Court of India in Civil Appeal No.2952 of 2020 set aside the order dated 7th July, 2020 passed by the Division Bench of this court in M.A.T. 473 of 2020. It is specifically ordered by the Hon'ble Supreme Court as follows :-

“ We make it clear that we are passing some orders in the given facts of the case which shall not be treated as a precedent and we give time to the respondents to pay the balance amount along with late payment surcharge in four equal installments starting from the first week of September, 2020 payable on or before the 7th of each succeeding month so that all the amount is cleared on or before the 7th December, 2020. There should also be no default in the current charges which should be paid in time.

It is also made clear that no further application for extension of time shall be entertained in respect of the aforesaid and any single default would activate the right of the appellants to take suitable action for disconnection and any other measure as permissible.”

The petitioner no.1 submits that he has received notice of disconnection on 20th September, 2021, inter alia, for bills raised on 1st September, 2021 amounting to Rs.5,61,08,242/-. The petitioner no.1 seeks instalments from this court for the purpose of payment of the aforesaid amount.

Apart from the prayer being in direct violation and in derogation of the order of the Hon'ble Supreme Court, as set out

hereinabove, this court sees absolutely no ground for interference since the Electricity Act and Rules framed thereunder is a complete code. A discretion to grant instalments is a commercial decision that rests exclusively within the jurisdiction of the licensee and the courts do not interfere with such discretion.

This court is of the view that equity has no role to play where statute and Rules are occupying the field. This court is also not able to countenance the argument of the petitioners and the notice of disconnection is in violation of any contract between the parties.

In that view of the matter, the writ petition shall stand dismissed.

There shall be no order as to costs.

All parties are to act on a server copy of this order duly downloaded from the official website of this court.

(Rajasekhar Mantha, J.)