

4th January,
2021
(AK)
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W.P.A 8993 of 2020

National Projects Construction Corporation Limited
Vs.
Punjab National Bank & Ors.

Ms. Reshmi Mukherjee
...For the Petitioner.

Affidavit-of-Service filed in court today be kept on record.

Despite service, none appears on behalf of the respondents.

Learned counsel for the petitioner submits that the respondent Bank is refusing to encash a Bank guarantee executed in favour of the petitioner on the pretext of the pendency of another writ petition in this court.

Learned counsel places reliance on Annexure- P11 at page-49 of the writ petition to indicate such stand of the Bank.

It appears from two orders, respectively dated December 10, 2019 and December 23, 2019, passed by a coordinate bench in W.P. 23025 (W) of 2019, that the learned Single Judge specifically recorded that, in the event the respondents (including the present petitioner) feel that they can duly encash the other Bank guarantee (apart from the one which had already been encashed) without adhering to Clause 55.1 of the contract between the private parties as some other clauses in the contract

are applicable, the order dated December 10, 2019 does not prevent them from doing so.

It was clarified by the learned Single Judge that, in the meantime, the respondents therein (present petitioner) was also free to consider the petitioner's offer.

As such, a plain reading of the previous orders of the coordinate Bench reveals that there is no embargo on the petitioner regarding encashing the Bank guarantee executed in its favour.

Mere pendency of the other writ petition, bearing W.P. 23025 (W) of 2019, does not, in law, prevent the petitioner from encashing the Bank guarantee executed by the private respondent in its favour.

Accordingly, W.P.A 8993 of 2020 is allowed, thereby directing the respondents to immediately release the amount due to the petitioner on the Bank guarantee executed in favour of the petitioner.

It is, however, made clear that such disbursement shall not, in any manner, prejudice the rights and contentions of the private parties in W.P. 23025 (W) of 2019.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)