

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.903 of 2019
In
Civil Writ Jurisdiction Case No.18555 of 2015

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1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
 2. The Principal Secretary Water Resources Department, Government of Bihar, Patna.
 3. The Chief Engineer Water Resources Department, Bhagalpur, Bihar.
 4. The Superintending Engineer Irrigation Circle, Kharagpur, District Bhagalpur, Bihar.
 5. The Executive Engineer Irrigation Division, Tarapur (Munger) District Munger Bihar.
 6. The District Mines Development Officer District Mines office, District Munger, Bihar.

... .. Appellant/s

Versus

M/s Czar Construction Pvt. Ltd. (A Company registered under the Companies Act, 1956) represented through its Director Ved Prakash, son of Sri Mishri Lal Yadav having its registered office at Kali Asthan Dirapar, Begampur, P.S. Chowk, District Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Naresh Dikshit (Spl. P.P. Mines)
For the Respondent/s : Mr. Prabhat Ranjan

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

5 22-03-2022 Heard Mr. Naresh Dikshit, learned Advocate for

the appellants and Mr. Prabhat Ranjan for the

respondent.

Mr. Dikshit seeks permission of this Court to



delete the names of appellants nos. 1 to 5, which is allowed.

The appellant no.6, namely, The District Mines Development Officer, District Mines office, District Munger, Bihar remains the sole appellant in this appeal.

The appellant has challenged the order dated 11.04.2019, passed by the Single Judge in C.W.J.C. No.18555 of 2015, whereby the demand Notice No.331 dated 11.08.2015 and the consequential letter issued by the Mines Development Officer, Munger, directing the respondent/M/s Czar Constructions Private Limited to deposit a sum of Rs.3,46,12,500/- as royalty and penalty has been quashed on the ground that the royalty had already been paid after deducting such amount from the bills of the respondent/Construction Company.

It appears that an agreement was entered into between M/s Czar Constructions Private Limited and



the Executive Engineer, Irrigation Division, Tarapur on 25.07.2012 for restoration of Badhua left Zamindari Bandh and construction and repair of the standing structure. The agreement value of the work was approximately Rs.20 Crores and the work was required to be completed within eighteen months from the date of issuance of the order.

It further appears from the records that there is no dispute with respect to the respondent Company having completed the work in time. Even the additional work, for which a separate agreement was executed, has also been performed to the satisfaction of the Authorities.

It further appears from the records that for the work done by the respondent Company, the bills raised have been paid through running account after making necessary deductions towards the royalty for mining materials. The Executive Engineer, Irrigation Division, Tarapur has testified that approximately an amount of



Rs.3,10,73,283/- has been paid towards royalty of the materials used for the repair of the embankment.

In that view of the matter, we are left with no option but to dismiss this appeal as the learned Single Judge has quashed the demand notice on the ground that the same has been deducted from the running bills of the respondent Company which has been paid to the Mines Department.

We do not find any force in the submission of Mr. Dikshit that such deductions could have been under other heads.

Mr. Dikshit has further submitted that the learned Single Judge went wrong in deciding the matter, when there existed a remedy of statutory appeal, which had not been exhausted by the respondent/Construction company.

This argument could have been raised before the writ Court but once the issue has been decided by the learned Single Judge, that cannot be contended in



appeal.

We do not find any merit in this appeal.

Accordingly, the appeal is dismissed.

(Ashutosh Kumar, J)

(Anjani Kumar Sharan, J)

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