

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.277 of 2022

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M/s Maa Bindyavashini Construction through its working partner Mr. Virendra Kumar Tiwari, aged about 45 years, (Male), Son of Sri Krishna Tiwari, Resident of Mohalla- Thakaraaha, Ward No.8, P.O.- Thakaraaha, Bettiah, P.S.- Thakaraaha, District- West Champaran. Official Address- At and P.O.- Thakaraaha, District- West Champaran (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Sinchai Bhawan, Bailey Road, Patna-15.
2. The Principal Secretary, Water Resources Department, Sinchai Bhawan, Bailey Road, Patna-15.
3. The Engineer-in-Chief (Irrigation Creation), Water Resources Department, Sinchai Bhawan, Patna-15.
4. The Chief Engineer (Irrigation Creation), Water Resources Department, Motihari (East Champaran).
5. The Superintending Engineer, Water Resources Department, Tirhut Canal Circle, Raxaul (East Champaran).
6. The Executive Engineer, Water Resources Department, Triveni Canal Division, Raxaul (East Champaran).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Manish Sahay, Advocate
Mr. Anil Kumar Sinha, Advocate
For the Respondent/s : Mr. Harish Kumar, GP-8

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

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(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/Hon'ble Judges through Video Conferencing from their residential offices/residences. Also the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

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Date : 18-02-2022

Petitioner has prayed for following relief(s) : -



- (I) **For commanding and directing** the concerned respondent to release balance amount of security deposit in favour of the petitioner in terms of **Clause 41** of the agreement because Defect Liability Period has already been over in March 2021.
- (II) **For further commanding and directing** the concerned respondent to pay entire amount of price escalation in terms of Clause 10CA of the Agreement up to actual date of completion i.e. till 31.03.2019.
- (III) **For further commanding** the concerned respondent to pay a sum of **Rs. 30,79,705 (Rupees Thirty Lakhs Seventy Nine Thousand Seven Hundred Five) only** to the petitioner towards extra work done in the light of deviation chart prepared on 09.03.2020 by the concerned respondents.
- (IV) **For further commanding and directing** the concerned respondent to refund entire deducted amount of **"Time Extension"** which has been deducted contrary to Section 55 of the Indian Contract Act, 1872 as well as provision of agreement.
- (V) **For further directing the** concerned respondent to pay differences amount of Good and Service Tax (in short GST), because in the agreement in question there were provision for Value Added Tax (VAT) not GST.
- (VI) **For further directing** the concerned respondent to pay interest @ 12% per annum over entire payable amount from the date of its due date and till the date of its realization, because after taking work from the petitioner respondents have slept over the matter.
- (VII) **For further passing** such an Order or Orders for which the petitioner is entitled under the law in the facts and circumstances of this case.

After the mater was heard for some time, finding



the Court not in favour of the submissions made by the learned counsel for the petitioner, learned counsel for the petitioner, under instructions, states that the petitioner shall be content if the petitioner is permitted to withdraw the present petition, with liberty to initiate appropriate proceedings before the appropriate forum and to take recourse to such other alternate remedies which are equally efficacious in law.

Prayer allowed.

It stands clarified that all issues of fact and law are left open to be agitated by the competent authority.

The petition is disposed of as withdrawn with the liberty aforesaid.

Interlocutory application(s), if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	21.02.2022
Transmission Date	

