

15 06.4.2022
Sc Ct. no.8

FMAT 83 OF 2022
With
I.A. No. CAN 1 OF 2022

M/s. Sudeb Kumar Banerjee & Ors.

Vs.

The State of West Bengal & Ors.

Mr. Mdhusudan Saha Roy
Mr. Rivu Dutta.

.... For the Appellants

Mr. Arjun Roy Mukherjee
Ms. Sucharita Paul.

.... For the Respondents

By consent of the parties, the appeal and the application are taken on the day's list and disposed of by this order.

The appellants are the erstwhile contractor. Their contract was terminated. The order of termination is under challenge. The appellants did not accept the termination. The appellants alleged that they are not allowed to execute the contract. The appellants approached the tribunal with a prayer for injunction. The prayer for ad interim order was refused. The appellants approached this Court apprehending that in the event the work order is awarded to a new contractor, the nature and extent of the work executed by the appellants could not be ascertained. More over, he has certain materials lying at the site.

On the last occasion, we requested Mr. Arjun Roy Mukherjee, learned counsel to represent the State

respondents in this proceeding. We also observe that the order in terms of the prayer '(b)' could be granted in favour of the appellants. We felt that the said order would be beneficial for both the parties.

Mr. Arjun Roy Mukherjee, learned counsel representing the State respondent submits that the order in terms of the prayer '(b)' could be granted.

Under such circumstances, the appeal and the application are disposed of by directing the parties to make a joint measurement of the work executed by the appellants. After the joint measurement is complete, it shall be duly signed by the parties and a copy of the said joint measurement shall also be supplied to the appellants.

There shall be an inventory of the materials belonging to the appellants at the site and after such inventory is being made and completed, the appellants shall be permitted to remove the building materials, equipment and any other property belonging to the appellants on due verification and the inventory list shall be shared by the parties and to be duly signed by the parties in presence of each other. The entire exercise shall be completed within two weeks from date.

The entire exercise shall be without prejudice to the rights and contentions of the appellants that there has been illegal termination of the contract.

FMAT 83 of 2022 along with I.A. No. CAN 1 of 2022 are thus disposed of.

There shall be no order as to costs.

Photostat certified copy of this order, if applied for, be furnished to the parties on usual undertaking.

(Ajoy Kumar Mukherjee, J.)

(Soumen Sen, J.)