

25.04.2022
Item No.01
Court No.6.
S. De

**C.P.A.N. 272 of 2022
in
MAT 1344 of 2019**

**Das & Brothers, represented by its Sole Proprietor
& Anr.
Vs
Sri Debasish Ghosh.**

Ms. Sanghamitra Nandy,
...for the petitioners.

Mr. Arka Kumar Nag,
...for the Bidhannagar Municipal
Corporation.

A copy of the order dated April 22, 2022 passed by the Commissioner, Bidhannagar Municipal Corporation be kept with the records.

This contempt application was filed alleging wilful violation of a judgment and order dated December 10, 2019 whereby MAT 1344 of 2019 was disposed of along with the connected applications.

The respondents in the appeal contended that they had done work for Bidhannagar Municipal Corporation but payment therefor was not released by the Corporation. They were successful in obtaining a favourable order from the learned Single Judge. The Corporation appealed. That appeal was disposed of by the order violation whereof is alleged in this contempt application.

The operative portion of the order of the Coordinate Bench reads as follows :-

“we do not see reason to remand the writ petition for fresh hearing. Interest of justice, in our view, would be sufficiently served if the Commissioner of the corporation, appellant no.2, proceeds to consider the representations of the respondents 1 and 2 dated 19th November, 2018, 12th December, 2018 and 27th May, 2019 in accordance with law and upon granting an opportunity of hearing to the respondents 1 and 2.

In the event the commissioner is of the opinion that the respondents 1 and 2 had executed the work entrusted to them fully and to the satisfaction of the corporation, release of the dues of the respondents 1 and 2 shall not be unduly delayed. However, if the commissioner is of the view that execution of the works by the respondents 1 and 2 fall short of the level of satisfaction or was not up to the mark or there are other reasons for which release of payment claimed by the respondents 1 and 2 in full or in part would not be permissible in law, a reasoned order shall be passed and communicated to them. Let this exercise be completed as early as possible but not later than eight weeks from date of receipt of a copy of this order.”

During the pendency of the contempt application, we find that the Commissioner of Bidhannagar Municipal Corporation has passed an order on April 22, 2022, the operative portion whereof reads as follows :-

“Considering the facts and circumstances of the above matter, it is found that the petitioner is entitled to receive the payment for the work purportedly executed by him as recorded and certified for payment by the concerned Engineer of Bidhannagar Municipal Corporation without any interest thereof. The Controller of Finance, Bidhannagar Municipal Corporation is directed to scrutinize all the bills and other relevant documents. It is pertinent to mention here that all these types of works are done with the fund received from the Government of West Bengal through Urban Development & Municipal Affairs department, Government of West Bengal. As such, Joint Municipal Commissioner, Bidhannagar Municipal Commissioner is directed to communicate to the department of Urban Development & Municipal Affairs Government of West Bengal for immediate sanction and placement of fund for making payment to the petitioner for the works executed by him.”

Learned advocate for the petitioners submits that although the Commissioner recognized the entitlement of the petitioners to receive payment for the work done, the Commissioner did not release such payment. On the other hand, the Commissioner directed that funds be obtained from the appropriate Government department for making payment to the petitioners.

We have heard learned counsel for the parties. We are of the view that the order dated December 10, 2019 has been substantially complied with by the Commissioner of the Municipal Corporation. The Commissioner has in no uncertain terms recorded in his order dated April 22, 2022 that the petitioners are entitled to receive payment for the work executed by them. The order of the Co-ordinate Bench directed the authorities not to unduly delay payment if payment is found to be due. Payment has now been found to be due. Hence, the concerned authority shall now release payment to the petitioners without undue delay in terms of the order of the Division Bench. Needless to say, if there is undue delay in releasing the dues of the petitioners, the petitioners will be entitled to approach the appropriate forum once again with their grievance.

C.P.A.N. 272 of 2022 is, accordingly, disposed of.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)