

September 8, 2022
Sl. No.27
Court No.1
s.biswas

MAT 544 of 2022
With
CAN 1 of 2022

Goutam Mukherjee
vs.
Union of India and others

Mr. Uday Sankar Chattopadhyay,
Mr. Suman Sankar Chatterjee,
Mr. Santanu Maji,
Mr. Pronay Basak,
Ms. Trisha Rakshit,
Mr. Subhayu Das, Advocates

..for the appellant

Mr. Bhudeb Chatterjee, Advocate

... for the respondents

This intra-court appeal is at the instance of the writ petitioner in WPA 20666 of 2021 aggrieved with the order of the learned Single Judge dated 29th March, 2022 by which the writ petition has been disposed of with certain observations.

Record reflects that the appellant had submitted bid in pursuance to the tender dated 20th February, 2020 for the work of making iron fencing in front of Environment Park at Chattaranjan. The bid of the appellant was accepted and the contract agreement dated 10th November, 2020 was executed. In terms thereof the appellant was required to complete the work on or before 30th November, 2020. The prayer for extension was accepted and finally by the termination notice dated 13th November, 2021 the contract was terminated.

Being aggrieved with the same, the appellant had questioned the termination notice by filing the writ petition. Learned Single Judge, while disposing the writ petition, has reached to the conclusion that the appellant has remedy under Clause 63.1 of the contract document.

Submission of learned counsel for the appellant is that since the dispute falls under exception Clause 8 and 22(5) of the contract, therefore Clause 63.1 cannot be invoked. This aspect is disputed by learned counsel for the respondents.

After examining the record we find that Clause 63.1 provides for determination of the dispute by the railway authority and Clause 64(1) relates to the settlement of dispute through Arbitration. Clause 8 and 22(5) are the exception Clauses but in the present case the said Clauses are not attracted because the contract has been terminated by the notice of termination of contract dated 13th November, 2021 on the ground that in spite of reasonable opportunity to start the work and applying extension, the appellant had not started the work and had claimed the extra rate which was not supported by the conditions of the contract agreement.

Hence, we are of the opinion that since appropriate remedy under Clause 63.1 and 64 of the contract document is available, therefore learned Single Judge has not committed any error in reaching to the conclusion that the petitioner should avail other appropriate remedy

available in law. We do not find any error in the order of the learned Single Judge. Hence, no case for interference in this appeal is made out, which is accordingly dismissed.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

[Prakash Shrivastava, C.J.]

[Rajarshi Bharadwaj, J.]