

20.06.2022
Item No. 37
Court No.32
Avijit Mitra

MAT 1200 of 2019
with
IA No. CAN 1 of 2019 (Old CAN 8569 of 2019)
with
IA No. CAN 2 of 2020 (Old CAN 1103 of 2020)

Coal India Limited & ors.
Versus
GOCL Corporation Ltd. & ors.

Mr. Pradip Kumar Dutta, Sr. Adv.,
Mr. Sudhakar Prasad
....for the appellants
Mr. Kushal Chatterjee,
Mr. Debrup Choudhury
....for the respondents

The present appeal has been preferred against the order dated 16th July, 2019 passed in W.P. No.7959 (W) of 2019.

Mr. Dutta, learned senior advocate appearing for the appellants submits that the arguments advanced on behalf of the appellants were not taken into consideration prior to issuance of the impugned order directing the appellants to release the bank guarantee in favour of the respondents/writ petitioners along with payment of interest @ 8% per annum on the value of the bank guarantee from 2nd November, 2017 and to return the earnest money along with interest calculated @ 8% per annum from the date of deposit of the earnest money.

Mr. Dutta submits that the impugned order was passed without appreciating that there had been no wilful or deliberate inaction on the part of the appellants to release the bank guarantee.

Mr. Chatterjee, learned advocate appearing for the respondents/writ petitioners, however, denies the contention of Mr. Dutta and submits that the appellants could not explain as to why the bank guarantee was not released even after 2nd November, 2017, when upon considering a similar situation in respect of supply of bulk explosives, the Hon'ble Supreme Court disposed of the matter directing the authorities to release the concerned bank guarantees.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

It appears that the Civil Appeal no. 1561 of 2019 (Indian Explosives Limited & anr. vs. Coal India Limited & ors.) was disposed of by a judgment dated 2nd November, 2017. No explanation was forthcoming as to why the appellants did not release the bank guarantee immediately after disposal of the matter before the Hon'ble Supreme Court and as such the learned Single Judge issued necessary directions upon the appellants towards payment of interest. However, the learned Judge also granted liberty to the appellants to identify the persons, who were responsible and to recovery the interest directed to be paid.

We do not find any infirmity in the order impugned and there had been no unreasonable exercise of discretion warranting interference in the present appeal.

Accordingly, the appeal and the connected applications are dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Raja Basu Chowdhury, J.) (Tapabrata Chakraborty, J.)