

IN THE HIGH COURT OF ORISSA AT CUTTACK

O.J.C. No.4272 of 2000

Gyanendranath Mohapatra.

....

Petitioner(s)

Mr.S.Das. Advocate

-versus-

State of Odisha & Ors.

....

Opposite Party(s)

Mr.S.Ghose, ASC

CORAM:

JUSTICE BISWANATH RATH

ORDER

11.02.2022

Order No.

5.

1. Heard learned counsel appearing for the parties.

2. This writ petition involves the following prayer:

“It is therefore prayed that this Lordships’ may be graciously pleased to admit the writ petitioner and may issue rule NISI;

(i) as to why the opp. parties shall not pay Rs.1,40,475/- with interest of 18% with effect from 03.04.1995;

(ii) as to why the opp. parties shall not pay the interest on the blocked capital of the petitioner and if the opp. party fail to show cause of show insufficient cause, the rule NISI be made absolute by issuing appropriate writ and may pass any other order/orders, direction/directions, with cost, as would be deem fit and proper;

And for this act of kindness the petitioner as in duty bound shall ever pray.”

2. This writ petition is yet to be entertained. For the dispute involving a money claim arising out of a contract, this Court first to see if petitioner had clear remedy under the contract itself.

3. Considering the entertainability of the writ petition, going through the contract No.E6/233 governing both the parties at Clause-27, this Court finds as follows:

CLAUSE-27: JURISDICTION IN THE EVENT OF DISPUTE.

That for the purpose of the jurisdiction in the event of dispute, if any, the contract should be deemed to have been entertained into within the Cuttack Development Authority area and it is agreed that neither party to this contract or agreement will be competent to bring a suit in regard to the matters covered by this contract at any place outside Cuttack.”

Reading the aforesaid clear clause, this Court finds in the event any dispute between the parties, a suit in the interest of litigant would have been brought and that too within the jurisdiction of Cuttack. In the existence of such clear condition between the parties, the writ petition is not entertainable, which is dismissed accordingly.

(Biswanath Rath)
Judge

Sks

