

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 24817 of 2011

Debendranath Das

.....

Petitioner

Mr. Y. Mohanty, Sr. Advocate

Vs.

E. Co. Railway and others

.....

Opposite parties

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE S.K. PANIGRAHI

ORDER

11.01.2022

Order No.

05.

This matter is taken up through video conferencing mode.

2. Heard Mr. Y. Mohanty, learned Senior Counsel appearing along with Mr. P.C. Biswal, learned counsel for the petitioner and Mr. A.K. Mishra, learned counsel for the opposite parties.

3. The petitioner has filed this writ petition seeking to quash the order dated 26.05.2011 Annexure-5, by which the contract has been rescinded and direction has been given that there would be forfeiture of security deposit and encashment of performance guarantee to the tune of Rs.4,24,915/- each totaling to Rs.8,49,830/-. As such, earnest money of Rs.1,58,00/- has been adjusted towards penalty and balance amount of Rs.6,91,830/- has been directed to be recovered from the petitioner.

4. Mr. Y. Mohanty, learned Senior Counsel appearing along with Mr. P.C. Biswal, learned counsel for the petitioner contended that as per the letter dated 19.08.2008, by which a document has been enclosed in page-25 of the brief, there should not be simultaneous forfeiture of security deposit and encashment of performance security as well as earnest money and imposition of penalty. It is contended that the petitioner has already moved the authority vide Annexure-6 which is still pending for consideration.

5. Mr. A.K. Mishra, learned counsel for the opposite parties disputed the contention raised by learned Senior Counsel appearing for the petitioner and stated that if the grievance of the petitioner in Annexure-6 is still pending, let the authority consider the same and pass appropriate order in accordance with law.

6. Having heard learned counsel for the parties and after going through the records, but, however, without expressing any opinion on the merits of the case, this writ petition stands disposed of directing the opposite party no.2 to consider and dispose of the grievance of the petitioner under Annexure-6 dated 20.06.2011 by passing a reasoned and speaking order after affording opportunity of hearing to the petitioner, within a period of three months from the date of communication/production of certified/authenticated copy of this order.

As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a print out of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed, vide Court's Notice No.4587 dated 25th March, 2020, as modified by Court's notice no. 4798 dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

(DR. B.R. SARANGI)
JUDGE

Ashok

(S.K. PANIGRAHI)
JUDGE