

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 9636 of 2013

M/s Kar & Kar & Kar Construction

.....

Petitioner

Mr. P.C. Nayak, Adv.

Vs.

State of Orissa and others

.....

Opposite Parties

Mr. P.P. Mohanty, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

29.03.2022

Order No.

05.

This matter is taken up through hybrid mode.

2. Heard Mr. P.C. Nayak, learned counsel for the petitioner and Mr. P.P. Mohanty, learned Addl. Government Advocate.

3. The petitioner has filed this writ petition seeking direction to opposite parties no.2 and 3 to release the amount of Rs.2,23,604/- which has been deducted from the final bill of the petitioner as 1% penalty in respect of the work "Construction and maintenance of work under PMGSY Agreement No.JLS/07/PMGSY of 2007-08 vide Package No. OR-02-57/VI".

4. Pursuant to notice, the opposite parties have filed counter affidavit stating therein that as per clause-21(b) of Contract Data appended to the G.C.C., the amount of liquidated damages for delay in completion of work is 1% of the initial contract price per week and as per clause-21(c) of Contract Data, maximum limit of liquidated damages for delay in completion of work is 10% of the initial contract price. Thereby, the deduction has been made in terms of the contract itself.

5. Having heard learned counsel for the parties and after going through the records, this Court is not inclined to entertain this writ

petition. However, in course of hearing, Mr. P.C. Nayak, learned counsel for the petitioner states that since there is availability of alternative remedy to approach the Dispute Redressal Forum, under clause-24 of the General Conditions of Contract, the petitioner may be permitted to move the said forum in accordance with law, to which Mr. P.P. Mohanty, learned Addl. Government Advocate has raised no objection.

5. In view of the above submission, the writ petition stands disposed of with liberty aforesaid.

(DR. B.R. SARANGI)
JUDGE

Ashok/Puspa

(SAVITRI RATHO)
JUDGE

