

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

215

**CWP-28580-2017 (O&M)
Date of decision: 22.09.2022**

M/S AVTAR SINGH CONSTRUCTION COMPANY PVT. LTD.

.....Petitioner

VERSUS

GREATER MOHALI AREA DEVELOPMENT AUTHORITY AND
ORS.

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Mr. P.S. Rana, Advocate
for the petitioner.

Mr. R.S. Khosla, Senior Advocate with
Mr. Sarvesh Malik, Advocate
for respondents.

VINOD S. BHARDWAJ, J. (Oral)

CM-3887-CWP-2018

The instant application has been filed under Section 151 of the Code of Civil Procedure, 1908 seeking stay for getting work in question started from the incoming contractor in view of Tender Notice (Annexure A-1) without final check up.

Learned counsel appearing on behalf of the applicant-petitioner submits that present application has been rendered infructuous.

Dismissed as having been rendered infructuous

MAIN CASE

The present petition had been instituted under Article 226/227 of the Constitution of India, 1950 seeking issuance of

directions to respondent No.4 to finalize the final bills and to release the pending payment, if any, in respect of work of strengthening/construction of 200 ft. wide road from Junction point, Sector 66-67/80-81 upto end of junction of Sector 73-74 at S.A.S. Nagar as demanded vide legal notice dated 27.10.2017 (Annexure P-25).

Learned counsel appearing on behalf of the petitioner contends that the petitioner was allotted the aforesaid work vide allotment letter dated 08.08.2008 (Annexure P-1) and the said work was completed by the petitioner on 10.12.2010. The maintenance period of 05 years as per the original tender also expired on 20.12.2015. He contends that a final bill with respect to the execution of the work was duly submitted by the petitioner on 16.12.2013 alongwith various claims. He however contends that the said bill has not been finalized and a legal notice (Annexure P-25) was also sent to the respondent-authorities on 27.10.2017 which is still pending determination.

In the written statement, the respondent-authorities have taken a stand that the final bill has not been submitted by the petitioner and as such there was no occasion for the respondents to finalize the same.

While controverting the aforesaid submission and the stand adopted by the respondents in their written statement, learned counsel appearing on behalf of the petitioner has drawn attention to the documents appended as Annexure P-6 which is dated 21.01.2014 about submission of a final bill for the completion of the work which was duly received by the respondents vide Diary No. 127; a reference to the

Divisional Engineer (C-1) whereby the final bill was forwarded to the said Divisional Engineer to verify the same by deputing appropriate officials as well as to the endorsement dated 07.07.2014 (Annexure P-8) whereby the authorities constituted a Committee of 05 members to check the measurements at the site and to collect the record from the office of Divisional Engineer and to finalize the said bill by 22.07.2014. The aforesaid direction was reiterated by the respondent No.1 in its letter dated 12.08.2015 (Annexure P-11) pointing out that the finalization of the bill has remained pending and directing to finalize the same within a period of 02 weeks. Invariably, the stand adopted by the respondents in their written statement is contrary to the undisputed available documentary evidence appended with the instant petition. Ordinarily the Court would have taken a serious note of such deliberate false stand adopted by the respondent-authorities and would have ensured that the officials who are responsible for filing misleading statements and taking a false stand are duly punished/penalized, however, counsel for the petitioner contends that he would not like to proceed in the said direction and would be satisfied in case the respondent-authorities are directed to look into the legal notice dated 27.10.2017 (Annexure P-25) and pass a reasoned and speaking order in a time bound manner after affording an opportunity of hearing to the petitioner.

The aforesaid prayer of the petitioner is not objected to by the counsel appearing on behalf of the respondents.

Resultantly, the present petition is disposed of with the consent of the parties and without commenting on the merits of the

present case directing respondent No.2 to pass a reasoned and speaking order on the legal noticed dated 27.10.2017 (Annexure P-25) after affording an opportunity of hearing to the concerned parties within a period of 03 months of receipt of certified copy of this order.

Needless to mention that in case any amount is found payable upon such consideration, the same shall be released forthwith and preferably within a period of 03 months thereafter. Non-release of the amount within the aforesaid period shall carry interest @ 6% per annum from the date of passing of this order till actual disbursement.

The present petition is accordingly disposed of.

All the pending miscellaneous applications, if any, are also disposed of.

(VINOD S. BHARDWAJ)
JUDGE

SEPTEMBER 22, 2022

Vishal sharma

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No