

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1411 of 2019

In
Civil Writ Jurisdiction Case No.16451 of 2018

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Sri Rajendra Sharma S/o Late Bako Sharma, R/o Mohalla- Dan Nagar, Ward No.-3, Post and P.O.- Khagaria, Distt- Khagaria.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Bihar Rural Works Department, Patna.
2. The Additional Chief Executive Officer-cum-Secretary, Bihar Rural Work Development Bailey Road, Vishweshwaraiya Bhawan, Patna.
3. The Secretary, Government of Bihar, Rural Works Department, Bihar Government, Bihar.
4. The Engineer-in-Chief, Rural Department, Works Division, Patna.
5. The Chief Engineer-2, Rural Works Department, Bhagalpur, Harding Road, Barack-2, Patna.
6. The Executive Engineer, Rural Works Department, Purnea.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Ravi Bhardwaj, Advocate
For the Respondent/s : Mr. Ravi Bhardwaj, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 28-08-2023

The petitioner by the above writ petition under Article 226 of the Constitution of India seeks directions to the respondent authorities to pay the amounts claimed by him for the maintenance work carried out between 12.12.2011 to 01.12.2015. According to the memorandum of the writ petition, an agreement was entered into between the petitioner and the



State of Bihar pursuant to an advertisement inviting open tenders in which the petitioner turned out successful. The petitioner was granted the contract for construction of a road under Santhal Tola NH Number 107 to Rajwada, under the scheme of Mukhyamantri Gramin Sadak Yojna. The agreement was entered on 27.03.2007; which road was to be completed by 02.12.2011 after which the contractor was also obliged to maintain the same till 01.12.2015. It is the submission of the petitioner that the maintenance of the road was carried out as required and there were no adverse remarks against the petitioner during the entire period of contract as well as the maintenance of the road. The petitioner, after the period of maintenance submitted a bill of Rs. 6 lakh which has not been paid till date.

2. The learned Single Judge dismissed the writ petition finding that the claim is made after 3 years and the reason for the delay is only the repeated representations filed before the authorities concerned. Un-represented memorials would not extend the period of limitation and in any event the claim raised is one for recovery of money, pure and simple, which cannot be adjusted under writ jurisdiction.

3. On a query made by this Court in the appeal



filed, the State has filed a counter affidavit. It is pointed out that entire payments, as per the agreement entered into, has been paid and the bills submitted, with respect to maintenance works alleged to have completed by him are not valid or permissible. It is categorically stated that the appellant/petitioner has not carried out any maintenance work. It is also pointed out that there is no substantive evidence produced by voucher or bills in support of the maintenance work alleged to have been carried out by the appellant nor any measurement submitted, as has been entered in the measurement book and approved by the Officers on the field.

4. Admittedly, there are disputes raised by the respondent and in such circumstances, this Court cannot definitely invoke writ jurisdiction. We are in perfect agreement with the orders of the learned Single Judge insofar as even according to the appellant, the maintenance work was completed on 01.12.2015 and the writ petition is filed on 24.10.2019, after expiry of 3 years; the limitation period for filing a suit for recovery of money. We are quite clear in our minds that the writ petition cannot be entertained for settlement of disputed money claims and, in any event, the appellant has approached this Court after the limitation expired even for



maintaining a suit for recovery of money.

5. We find absolutely no reason to entertain the appeal and dismiss the same.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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