

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

HEARD ON: 14.12.2023
DELIVERED ON: 14.12.2023

**CORAM:
THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM
AND**

THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA

M.A..T. 718 of 2023

With

I.A. No. CAN 1 of 2023

University of Burdwan & Ors.

Vs.

Sk. Saber @ Sekh Saber

Appearance:-

Mr. Mohan Pututunda

Mr. Debdas Khanna

Mr. Abhinaba Chatterjee

.....for the appellants

Mr. Debabrata Saha Roy

Mr. Indranath Mitra

Mr. Neil Basu

Mr. Sankha Biswas

.....for the State

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, C.J.)

1. We have heard learned advocates for the parties.
2. This intra-Court of appeal by the University of Burdwan is directed against the interim order dated 17th April, 2023 passed in W.P.A. 6576 of 2023. The learned Single Bench has noted that the work was carried out by the writ petitioner for the University in two phases in the year 2014 and 2017 and out of the total amount of Rs.34 lakhs payable to the writ petitioner, approximately Rs.27 lakhs was paid and there was a balance of Rs.8,75,533/-. The learned Single Bench was of the prima facie view that non-payment much after the

work was done was an afterthought and balancing the interest of parties, before calling for affidavits directed 50% of the outstanding dues of Rs.8,75,533/- to be paid to the writ petitioner.

3. In our considered view, the order is a discretionary order and does not suffer from any perversity for us to interfere. It will be well open to the appellants/University to file their affidavit-in-opposition in the writ petition and put forth their case before the learned Single Bench.
4. It goes without saying that the payments, which has been directed to be made by the learned Single Bench shall be without prejudice to the rights and contentions of the appellants/University in this writ petition.
5. The learned advocate appearing for the appellants/University submits that the cost of Rs.10,000/- has been imposed on the appellants/University in a contempt application filed by the respondent/writ petitioner. Liberty is granted to the appellants/University to seek for deletion of the cost before the learned Single Bench in the light of the order passed in this appeal.
6. The payment shall be made to the writ petitioner not later than 20th December, 2023.
7. Accordingly, the appeal and the connected application stand dismissed.
8. No costs.
9. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(HIRANMAY BHATTACHARYYA, J.)

Pallab/KS AR(Ct.)