

11
31.07.2023
D.Hira
Court No. 12

**In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side**

**MAT 1940 of 2017
With
CAN 1 of 2017 (Old No. CAN 10779 of 2017)**

**Ranjit Pal @ Ranjit Kumar Pal
Versus
The State of West Bengal & Ors.**

**Mr. Jayanta Das,
Ms. Soumita Ghosh.
... for the petitioner**

**Mr. Pantu Deb Roy,
Mr. Subrata Guha Biswas.
... for the State**

The appellant is a successful tenderer and the tender is granted to cut 295 trees within a period of sixty days. The appellant could not cut the trees within sixty days time granted by the respondents.

Even after extension of time granted, the appellant could not cut all the trees and left 25 trees were uncut.

According to the appellant, 25 trees were remained uncut due to paucity of time.

The appellant filed the writ petition no. 24330 (W) of 2017 for a direction to the respondent to pay the value of the 25 unfelled trees to the petitioner or to grant extension of time to fell the remaining 25 trees.

Learned Judge considering the materials on record, disposed of the writ petition holding that the relief sought for by the petitioner is civil in nature and the issue for damages can be decided only after trial.

Challenging the said order dated October 25, 2017, the appellant has come out with the present appeal.

Mr. Das, learned counsel for the appellant contended that the appellant was granted a contract to cut and remove 295 trees within sixty days time from 19.09.2013.

Subsequently, at the request of the appellant time was periodically extended and the last extension was up to 11.12.2014.

Mr. Das, learned counsel for the appellant further submitted that learned Judge erred in holding that the relief sought for by the appellant is civil in nature and the writ petition is not maintainable. It is not in dispute that the appellant was granted tender and the entire tender amount of Rs.58,00,000/- was paid to the respondent. The writ petition is maintainable as it relates to tender process. The appellant is entitled to extension of time.

Mr. Pantu Deb Roy, learned counsel for the State submitted that tender was granted to the appellant to cut 295 trees within the specified period and at the request of appellant the time was

extended. Despite several opportunities were given to the appellant, the appellant did not utilize the opportunity to remove the trees. Originally, time was granted for sixty days and subsequently, more than one year time was extended at the request of the appellant. In view of the same, the appellant is not entitled for the relief sought for in the writ petition. He further submitted that learned Judge considering the materials rightly held that the relief sought for by the appellant is civil in nature and not entitled for the relief and prayed for dismissal of the appeal.

Heard Mr. Jayanta Das, learned Counsel appearing for the appellants and Mr. Panty Dey Roy, learned counsel appearing for the State and perused the entire materials on record.

From the materials on record it is seen that the appellant was granted a contract to cut and remove 295 trees and time limit was fixed as sixty days. The appellant could not cut the trees within the stipulated time granted by the respondents.

According to the appellant, the appellant was granted sixty days time from 19.09.2013 and subsequently at the request of appellant the time was extended till up to 11.12.2014.

Even after extension of time granted by the respondents the appellant could not cut and remove the trees and 25 trees remained uncut.

From the materials it is seen originally the appellant was granted sixty days time to cut all 295 trees. In spite of granting extension of time for more than one year, the appellant could not cut all the trees and 25 trees were left uncut.

The appellant is not entitled to extension of time repeatedly. The contention of learned counsel for the appellant that issue relates to tender and therefore, W.P. is maintainable is not acceptable. The relief sought for by the apt relates to the contract granted to the appellant. Further it is seen the appellant is seeking alternate relief of damages.

Learned Judge considered all the above materials including the fact that originally the appellant was granted 60 days time and the extension of time was granted for more than one year disposed of the writ petition holding that the appellant is not entitled for any damages and the matter is civil in nature.

There is no reason or error in the order of learned Judge warranting interference by this Court.

The appeal fails and dismissed.

The learned counsel appearing for the appellant submitted that respondents may be directed to refund the earnest money of 2 lakhs. It is open to the appellant to approach the respondents for return the earnest money of Rs.2

lakhs. If any such request is made by the appellant the respondents are directed to consider said request as per rules within four weeks.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(V.M. Velumani, J.)

(Rai Chattopadhyay, J.)