

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

16 15.6.2023

Ct-01

MAT 3 of 2023
with
I.A No. CAN 1 of 2023

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**Coochbehar Construction Company Engineers and Contractor
Vs.
The State of West Bengal & Ors.**

Mr. Pappu Adhikari
Mr. Subinay Dey
Mr. Debanjan Das
... For the Appellant

Mr. Pritam Das
... For the Municipality

Mr. Hirak Barman
Mr. Momenur Rahman
... For the State

Mr. Momenur Rahman, learned advocate representing the respondent no. 8, has filed a report in the form of an affidavit in which he has stated the following in paragraph 5 of the said affidavit:-

“in connection with construction of Dwelling House, Group-IV, VII, VIII & XIII the amount claimed by the writ petitioner is a sum of Rs.42,22,293.00 and the final bill amount as per Measurement Book was a sum of Rs.66,72,980.00 which was paid by the Cooch Behar Municipality.”

It was further submitted that a sum of Rs.1,07,89,359.00 is the final bill amount as per the Measurement Book, out of which a sum of Rs.99,68,556.00 has been paid by the Coochbehar Municipality, leaving a sum of Rs.8,00,000/- approximately. However, the said amount is disputed by the appellant as it is submitted that the appellant is entitled to largest sum that was indicated.

Learned counsel for the Municipality has submitted that on 12th June, 2023 the Municipality has disbursed the amount, so far received and the Municipality has already submitted all the necessary papers to the MED, Cooch Behar Division for onwards transmission of the same. The Municipality has no objection to pay the final bills, if the final bills are submitted by the MED, Cooch Behar Division for payment.

Under such circumstances, we direct the Executive Engineer, MED, Cooch Behar Division to give a hearing to the appellant with regard to their claim in presence of all the necessary parties who are connected with the said project and take a final decision in this regard within four weeks from the date of communication of this order by either of the parties.

The appellant shall be entitled to inspect the original record and the Measurement Book and make appropriate submission with regard thereto before the Executive Engineer, MED.

In view of the admitted position the appellant shall be entitled to a sum of Rs.8,20,803/- including the security deposit within two weeks from date.

In the event the appellant is aggrieved by the decision of the Executive Engineer, it would be open for the appellant to challenge the decision of the Executive Engineer in accordance with law.

The judgment under appeal is accordingly set aside.

In view of the above, the appeal and the connected application being CAN 1 of 2023 stand disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this court.

(Raja Basu Chowdhury, J.)

(Soumen Sen, J.)