



WEB COPY

A.No.3065 of 2023

in

C.S.No.697 of 2014

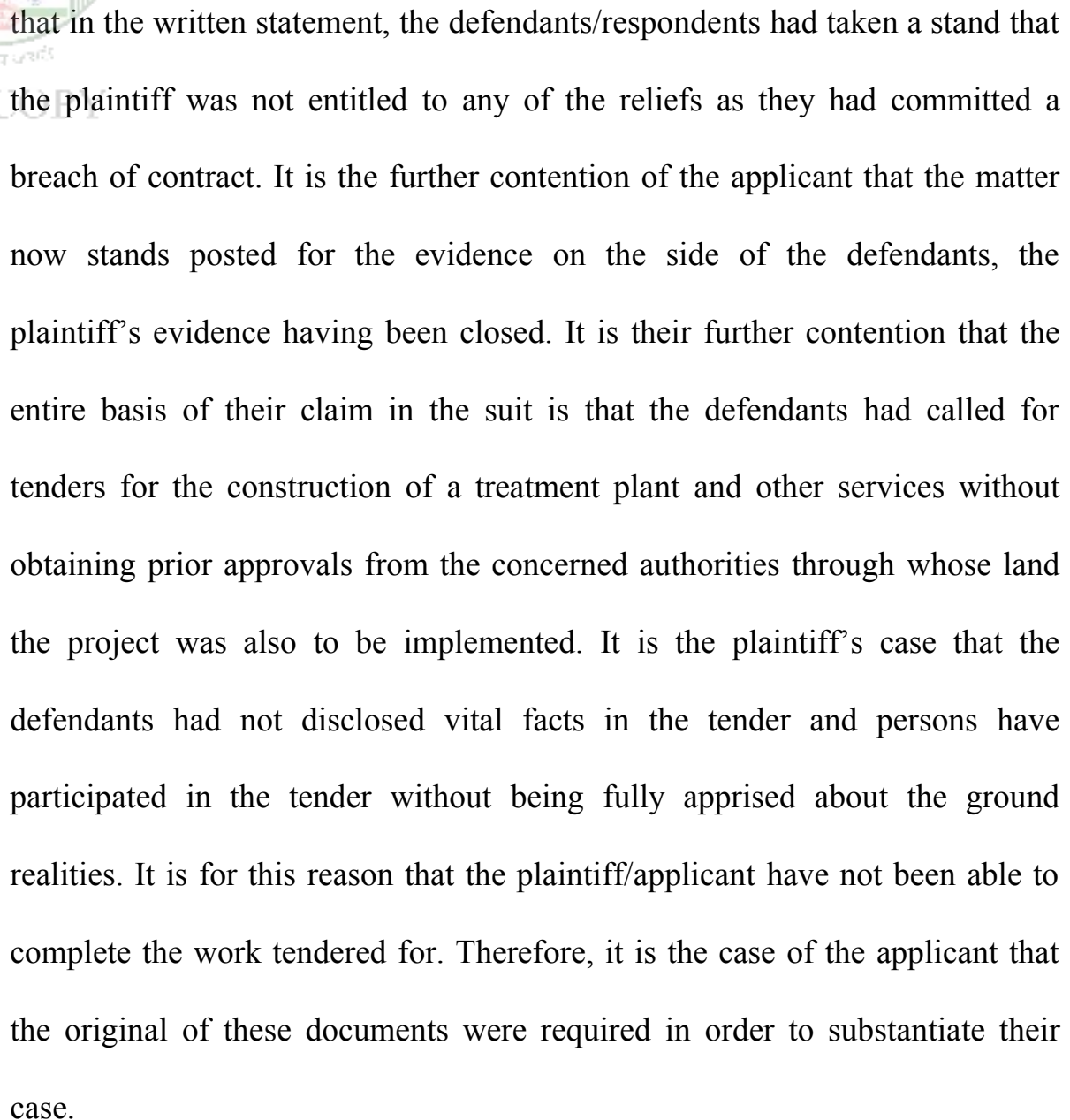
P.T. ASHA, J,

The above application has been filed for a direction to the defendants to produce the original documents set out in the schedule to the Judge's summons arising in the suit filed by the applicant/plaintiff for recovery of a sum of Rs.4,60,37,500/- together with interest at 18% per annum and for an injunction restraining the defendants from terminating the contract agreements dated 30.03.2011 and from invoking the Performance Bank Guarantee. The amounts had been claimed under the following heads:-

<i>a. Cost of pipes supplied during June 2011</i>	:	<i>Rs.1,00,00,000.00/-</i>
<i>b. Price Escalation for bill Nos.3 to 6 lakhs</i>	:	<i>Rs.60,00,000.00/-</i>
<i>c. Shifting of pipes from stock yard at Khandal STP to work site. lakhs</i>	:	<i>RS.22,50,000.00/-</i>
<i>d. Security Deposit @ 15% (5% +10%) lakhs</i>	:	<i>Rs.1,35,00,000.00/-</i>

		<i>Rs.3,17,50,000.00</i>
<i>Interest @ 18% for 2 years</i>	:	<i>Rs.1,42,87,500.00/-</i>

<i>Total</i>	:	<i>Rs.4,60,37,500.00/-</i>



3. A counter has been filed by the respondents/defendants in which it has been stated that most of the documents that are being asked for is the applicant's own documents. Further under the Commercial Courts Act, the plaintiff/applicant has come forward with an Application for additional

documents after the parties had completed their admission and denial of



documents. That apart, no valid reasons have been given in the affidavit filed in support of the Application setting out the reasons as to why the documents are now required. The defendants/respondents have also set out their objections with reference to each of the documents that had been called for in a tabulated statement. Their objection to this application is on the ground that the letters that are sought for were all documents in the custody of the plaintiff and the other documents are internal correspondence which the plaintiff cannot summon as a matter of right. They would further submit that without adequate reasons being given, this Application is not maintainable.

4. The learned counsel appearing on behalf of the applicant would submit that at the time of tendering, the defendant board had not made it known to the bidders participating in the tender that the property consisted of both non-forest area as well as forest area and further the board had not obtained the approval of the forest department as well as the Highways Department for laying the pipelines over their respective lands. This has been set out by the plaintiff/applicant in their pleadings and to prove the same that the minutes of the meeting which have been listed as serial nos.2, 4, 7, 8,9,10 and 13 etc; was required as it would throw light on these facts.



for the defendants would submit that nowhere in the pleadings either in the complaint or in the written statement any reference has been made to any of these documents that are now called for. Further, the affidavit filed in support of this Application does not set out the reasons as to why at this stage the said application is being moved. He would submit that in the light of the above, the application deserves to be dismissed.

6. Heard both the counsels.

7. The applicant has sought for recovery of money under the heads which has been set out supra. None of the documents which are now sought for are required to prove the above claims. Further, the plaintiff themselves are in possession of the documents to show the cost of the pipes and also the evidence for the sum of Rs.60,00,000/- which they have claimed as price escalation. The other heads under which the amounts have been sought for is the shifting pipes from the stock yard at Khandal STP to work site. To prove these claims the applicant plaintiff has to only submit the documents in their possession and the minutes of the meeting etc; now asked for are irrelevant. Therefore, I see no reason to allow this Application that too at this stage, and the same is dismissed. No costs.



8. For filing Revised case management Schedule, post the matter

on 23.08.2023.

07.08.2023

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