

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

224

CWP-15090-2020 (O&M).
Date of Decision: 16.10.2023.

**MANOCHA BUILDERS, NUH THROUGH ITS PROPRIETOR
RAKESH MANOCHA**

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Jatinder Nagpal, Advocate, and
Mr. Chetan Juneja, Advocate, for the petitioner.

Mr. Pankaj Mulwani, DAG, Haryana.

Mr. Rajesh Lamba, Advocate, for respondent No.5.

VINOD S. BHARDWAJ. J (ORAL).

CM-10602-CWP-2020

The present misc. application has been filed under Order 1 Rule 10 read with Section 151 of the Code of Civil Procedure, 1908, for seeking impleadment of applicant-M/s Dharam Constructions as respondent No.5. The application is supported by affidavit of applicant.

Notice in the present application had been issued on 29.10.2020 and thereafter, the reply has also been filed by the petitioner praying for dismissal of the same.

However, today, learned counsel for the petitioner submits that in view of the fact that the main writ petition is being finally decided today, he has no objection to the present application being allowed.

Accordingly, the present application is allowed. Applicant-M/s Dharam Constructions is impleaded as respondent No.5.

Amended Memo of Parties is taken on record.

Registry is directed to substitute the same at appropriate place.

Main case

The present writ petition has been filed for seeking issuance of directions to the respondents to release the balance/final payment along with interest @ 18% per annum for the construction works executed and completed by the petitioner sole proprietorship as per the terms of the work orders and the completion certificates issued by the respondent Authorities.

Reply on behalf of respondents No.1 to 4 had been filed wherein it was averred that the petitioner-firm had made a request to the respondent Department to make the payment of the works allotted and completed by the petitioner firm in its Account situated in the Union Bank of India. The details of the GST Number of the firm had also been handed over. However, the Permanent Account Number (PAN) as well as the GST details were at variance from the details furnished earlier by the petitioner. The respondent Department thus tried to verify the claim

made by the petitioner-firm and it transpired that the same were never issued by the Bank and were vague. An FIR No.363 dated 09.07.2020, under Sections 420, 467, 468 and 471 of the Indian Penal Code was registered at Police Station Camp Palwal. It is averred that the demand made by the petitioner firm is an outcome of a fraudulent act towards the Department and there was a dispute going between the petitioner and the sub-lettee namely M/s Dharam Constructions which had actually executed the work. A permission had been granted to release 40% of the contract value in favour of the sub-lettee as per Clause 7.1 of the contract agreement vide letter No.6841 dated 18.04.2019. It is averred that since there is a dispute qua the rival claims raised by the petitioner as well as the sub-contractor/sub-lettee and also regarding the legality and validity of the claim being raised by the petitioner, hence, disputed questions of fact arise for determination in the present writ petition.

Taking into consideration that there are conflicting civil rights being claimed by the petitioner as well as the respondent No.5 and also the decisions taken by the respective parties along with the disputed questions of fact which arise for determination in the present case, it would not be appropriate for a writ Court to exercise any jurisdiction.

Learned counsel for the petitioner does not press the instant petition.

Liberty is, however, granted to the parties to approach the Civil Court and/or to take recourse to the alternative remedies available to them in accordance with law for settlement of their disputes.

Needless to mention that in the event of institution of any such proceedings, an expeditious decision shall be taken thereupon.

Further, the period during which the present writ petition has remained pending before this Court shall also be taken into consideration while computing limitation.

The present petition is accordingly disposed of as not pressed in view of above directions with liberties as aforesaid.

October 16, 2023
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No