

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.337 of 2024

In
Civil Writ Jurisdiction Case No.8545 of 2023

-
-
1. The State of Bihar through Principal Secretary, Minor Water Resources Department, Government of Bihar, Patna.
 2. The Principal Secretary, Minor Water Resources Department, Government of Bihar, Patna.
 3. The District Magistrate, Begusarai.
 4. The Deputy Development Commissioner, Begusarai.

... .. Appellant/s

Versus

Urmila Devi Wife of Late Aniklal Das Resident of Rajopur, Ajni, Begusarai,
Aijani, Bihar- 848204.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. P.K.Shahi, A.G. Mr.Ajit Kumar, GA-9 Mr. Pankaj Kumar Sinha, Advocate
For the Respondent/s	:	Ms. Aditi Hansaria, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 22-10-2024

Re.: Interlocutory Application No. 2 of 2024

There is 118 days delay in filing the appeal.

2. The learned Counsel for the writ petitioner who appears for the respondent in appeal, opposes the prayer for condonation of delay.

3. Having gone through the affidavit, we are



convinced that there is sufficient reason shown for condonation of delay.

4. Delay is condoned.

5. I.A. No. 2 of 2024 stands disposed of.

Re. L.P.A.No. 337 of 2024

On consent, the matter was heard at the admission stage itself.

2. The appellant-the State Government is aggrieved with the judgment of the learned Single Judge, which granted 7% simple interest per annum on the delayed payments of the bills of the writ petitioner.

3. We heard the learned Advocate General for the appellants and Ms. Aditi Hansaria, learned Counsel, who appeared for the petitioner in the writ petition; also appearing before us in the appeal.

4. The admitted fact is that the petitioner had completed a work in the year 1991. The payment of the bills submitted by the petitioner, with respect to the work completed in 1991, was only in the year 2018. In the year 2023, the petitioner filed the writ petition; seeking interest for the delayed payments, the order in which is challenged before us in appeal,

5. The learned Single Judge noticed that the amounts



were paid only by virtue of the judgment of this Court and hence, the petitioner is entitled to reasonable interest, which was quantified at 7% simple interest.

6. The learned Advocate General appearing for the appellants submitted that the matter is purely contractual and there could not be a writ petition filed under Article 226 of the Constitution of India. Further, it is submitted that admittedly, the payments were made in 2018 and if there was a claim for interest, the petitioner could have approached the Civil Court within three years. The petitioner has approached the writ court after the limitation provided for agitating the cause in the Civil Court and hence, she is further prohibited from invoking the extraordinary remedy.

7. The learned Counsel for the petitioner, however, submits that there was a delay of 27 years in paying the amounts and the State cannot now say that no interest would be paid. In fact, the petitioner's claim was settled in the year 2018 by reason of the judgment passed in the case of another contractor. The petitioner also pointed out the response to the RTI query produced as Annexure-R/6A, in which it is clearly indicated that interest was paid only to those contractors who approached the Court. Hence, the writ petition was filed, is the



submission.

8. We cannot but notice that the petitioner, whose bill payments were pending from 1991, did not approach any authority or a legal forum to get disbursed the amounts as per the bills submitted. It is on the basis of a judgment passed in another contractor's case that the payments were made by the State. Admittedly, the payments were made in the year 2018. As rightly submitted by the learned Advocate General, the petitioner could have moved the Civil Court for interest within three years from the date of payment, which could be taken as the point at which the limitation had commenced for reasons of the admitted payments having been made with respect to the bills submitted in the year 1991.

9. The petitioner did not approach the Civil Court nor did the petitioner approach the Writ Court within the limitation provided. The present attempt by a writ petition is clearly to get over the limitation, as provided under the Limitation Act, 1963. In any event, in contractual matters Article 226 cannot be invoked.

10. We are of the definite opinion that the learned Single Judge erred in granting interest and computing the same in a petition under Article 226, without adjudicating the



quantum of loss caused to the petitioner by reason of the delay occasioned, which again has to be on sufficient evidence and cannot be agitated in a petition under Article 226 of the Constitution of India.

11. The appeal stands allowed and the impugned judgment is set aside.

12. Interlocutory application, if any, shall stand closed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	23.10.2024
Transmission Date	

