

19.09.2024

Item No. 19

Crt.No.02

b.r.

WPA 177 of 2020

***Mayureswar Ambedkar Smriti Sangha
represented by its Secretary Sri Rajkumar Fulmali
& Anr.***

-vs-

The State of West Bengal & Ors.

Mr. Tulshi Das Roy

Mr. Tirthankar Roy

.... For the petitioners.

Mr. Swapan Kumar Dutta, Ld. AGP.

Mr. Tapas Kumar Dey

.... For the State.

Mr. Tapas Kumar Dey, learned State counsel led by Mr. Swapan Kumar Dutta, learned Additional Government Pleader appearing for the respondent nos. 1 to 3, submits a report in the form of affidavit affirmed by the respondent no.3 on September 2, 2024, the same is taken on record.

Mr. Tulshi Das Roy, learned counsel appearing for the petitioners submits an exception to the report in the form affidavit affirmed on September 18, 2024, is taken on record.

The petitioners upon receiving orders from the respondent no.3 for construction of **560** numbers of toilet under **Mission Nirmal Bangla (MNB)** have constructed the same. Out of such 560 numbers dispute was raised by the respondent authority that

double payment was made in respect of 125 numbers. After deducting the same, the petitioners claim an amount for construction of 435 numbers of toilets. The admitted position is that the petitioners have received payment in respect of **306**. The petitioners claim the balance payment after adjusting the double payment made in respect of **125 numbers plus 5** further numbers which are disputed whether they constructed since there was a dispute who had constructed the same.

On perusal of the statements made in **paragraph-2** in the report in the form of affidavit filed by respondent no.3 and the denial thereof from the exception filed by the petitioners in the form of affidavit, this Court is of the firm view that there are several disputed questions of facts with regard to the settlement of accounts required to be gone into. This is not the job of a writ Court.

To settle the disputes between the parties in the facts of this case in view of the statement made on oath by the parties which are on record, this Court is of the view that a detailed fact finding enquiry required to be made by conducting proper trial.

In view of the foregoing discussions and reasons, this Court is of the considered view that, this writ petition is not maintainable.

The petitioners shall be at liberty to pursue their claim before the jurisdictional Civil Court in accordance with law.

It is made clear that this Court has not gone into the merits of the rival contentions of the parties as would be evident from record in this writ petition and the parties shall be at liberty to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the appropriate jurisdictional Civil Court.

The petitioners shall be entitled to the benefit of **Section 14 of the Limitation Act, 1963.**

If the petitioners are so advised they shall file proper civil suit within a period of **eight weeks** from date.

In the event, such civil suit is filed, the jurisdictional Civil Court shall dispose of the same in accordance with law as expeditiously possible.

With the above observations, this writ petition, **WPA 177 of 2020** stands **disposed of**, without any order as to costs.

(Aniruddha Roy, J.)