

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

HEARD ON: 22.05.2024
DELIVERED ON: 22.05.2024

CORAM:

**THE HON'BLE MR. CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA**

M.A.T. 849 of 2024

With

IA No. CAN 1 of 2024

The State of West Bengal & Ors.

Vs.

Sudeb Ghosh represented by its Sole Proprietor Sudeb Ghosh & Ors.

Appearance:-

**Mr. Mr. Wasim Ahmed
Sk. Md. Masud**

..... For the Appellants

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, C.J.)

1. We have heard the learned advocates for the appellants on the last occasion, but, none appeared for the respondents. Though service was completed and affidavit of service was filed, however, in order to ensure that the writ petitioners are represented, we directed the learned advocate for the appellants to serve notice on the learned advocate, who appeared for the writ petitioners. This direction has been complied with and affidavit of service has been filed today, which is taken on record. However, none appears for the respondents/writ petitioners.
2. This intra-Court appeal by the State is directed against the order dated 21st March, 2024 in W.P.A. 4304 of 2024.
3. The issue involved in this matter is whether the appellants/department could have been directed to pay the writ petitioners a particular amount of money in

respect of a work, which was stated to have been completed by the writ petitioners.

4. The stand taken by the appellants is that the appellants are not the disbursing authority and the respondent no.5, who is alleged to have given the completion certificate, had unilaterally taken certain decisions by enhancing the contract amount, which was not authorized to be done.
5. Considering the facts of the case, we are of the view that an opportunity should be granted to the appellants to file their affidavit-in-opposition so that the facts are brought on record and thereafter, the claim made by the writ petitioners can be adjudicated.
6. For such reasons, the appeal and the connected application (IA No. CAN 1 of 2024) are allowed. The order passed in the writ petition is set aside. The writ petition is restored to the file of the learned Single Bench. The appellants/department are directed to file their affidavit-in-opposition not later than 21st June, 2024; reply thereto, if any, may be filed by 4th July, 2024.
7. Let the writ petition be listed before the appropriate Bench in the week commencing 8th July, 2024.
8. No costs.
9. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(HIRANMAY BHATTACHARYYA, J.)