

06.08.2024
Court No.09
Item no.06
CP

WPA No. 12313 of 2023

Addya Construction
Vs.
The State of West Bengal & Ors.

Mr. Subhabrata Datta
Mr. Debashis Sarkar
..... for the petitioner.

Mr. Amal Kr. Sen
Mr. Lal Mohan Basu
....for the State.

The petitioner has alleged that the respondents had failed to refund the earnest money which was deposited by the petitioner when a tender was floated with regard to some construction work. The petitioner deposited earnest money to the tune of Rs.2,18,000/- and Rs.1,25,000/- for two respective works.

The respondent no. 5 issued two letters of acceptance, both dated March 1, 2011. It is alleged that the sites were not handed over to the petitioner. It was an obligation on the part of the tendering authority in terms of the tender document. On June 20, 2011, the petitioner intimated the concerned authority that the site was not clear. On June 12, 2013, the petitioner prayed for refund of the earnest money as the work could not be initiated on account of delay in handing over the sites.

It appears that the Executive Engineer, Hooghly Highway Division-II, PW (Roads) Directorate had directed the Executive Engineer, WBSRDA, Hooghly Division to refund the earnest money that was deposited in respect of both the work orders. Several representations were made by the petitioner which have gone unnoticed. The Executive Engineer, WBSRDA, Hooghly Division has referred the matter to the Chief Engineer (P & RD), Block – HC, Plot No. 7, Sector –III, Bidhannagar. The reference of the matter to the panchayat authorities is hardly relevant as this is a case where the work could not be executed by the petitioner on account of failure on the part of the tendering authority to hand over free and vacant possession of the lands on which such roads under the PMGSY were to be constructed by the petitioner, as per the letter of acceptance. Even if the Panchayat authorities could not clear the site, the question is of wrongful withholding of the money since 2011. The fact that refund was directed by the authority, amply proves the fact that the petitioner's contention is correct.

The Executive Engineer, Hooghly Highway Division-II, PW (Roads) Directorate, had already directed the Executive Engineer, WBSRDA, Hooghly Division to refund the earnest money deposited which has been pending since long.

Under such circumstances, the Executive Engineer, Hooghly Highway Division-II, PW (Roads) Directorate and the Executive Engineer, WBSRDA, Hooghly Division are directed to sit together and resolve the matter with the petitioner, by refunding the earnest money for each of the work orders either by way of Bank Draft or by NETF/RTGS, as the case may be, along with simple interest calculated at the rate of 4% per annum, on and from 2013 (date of first claim), upto the date of actual payment.

It appears that the petitioner has been asking for refund of the same since 2011. The authorities were also willing to refund the money, but for some reason a delay of more than 10 years has occurred.

The entire amount along with interest shall be paid to the petitioner within a period of two months from the date of communication of this order.

The writ petition is disposed of accordingly.

There shall be no order as to costs.

All parties are to act on the basis of server copy of this order.

(Shampa Sarkar, J.)