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24.04.2024
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 17671 of 2023

Sunbird Power Private Limited & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Rahul Karmakar,
Mr. Nirmalya Dutta
...for the petitioners

Mr. Tanoy Chakraborty,
Mr. Nilay Barun Mondal
...for the State

Mr. Debayan Sen
...for the respondent no. 4

1. The petitioners allege that petitioners did work for installation of a Solar Panel Water ATM for the respondent-Panchayat. Subsequently, it is contended, an e-mail was sent by the petitioners, which is annexed at page 34 of the writ petition, seeking modified specification of the schedule in view of certain further engineering works being necessary for completion of the work. It is alleged that the said proposal was sanctioned by the concerned Nirmal Sahayak verbally. Thereafter the petitioners completed the work but bills of the petitioners are not being paid by the respondents, for which the instant writ petition has been preferred.

2. Learned counsel for the respondent-authorities argues that the modification sought by the petitioners was unilateral. It is argued that the petitioners failed to complete the work satisfactorily in terms of the specifications contemplated in the original work order and the contract between the parties. As such, since the work is a public utility project involving public money, the respondents were unable to process/approve the bills of the petitioners.

3. In view of the conflicting arguments advanced by the parties, there clearly arise disputes as regards the extent of the work done by the petitioners and as to how far the same was approved. Moreover, since the respondents raise issues of the work not having been done satisfactorily, certain factual disputes on such count are also required to be decided, upon appreciation of detailed evidence, for the purpose of deciding the disputes between the parties comprehensively. However, the writ court is not sufficiently equipped on such count. The appropriate remedy, thus, for the petitioners lies before a competent civil court, which has the necessary wherewithal for taking evidence to finally adjudicate the rights and contentions of the parties conclusively.

4. Hence, W.P.A. No. 17671 of 2023 is disposed of by granting liberty to the petitioners to approach the competent civil court with the money claim as made in the present writ petition.

5. If so approached, the said civil court shall decide the suit independently in accordance with law without being influenced in any manner on merits by any of the observations made by this court.

6. There will be no order as to costs.

7. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)