

03.04.2024

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PG/KS

Ct. No.1

M.A.T. 2538 of 2023

With

I.A. No. CAN 1 of 2024

Jaya Construction & Company & Anr.

Versus

State of West Bengal & Ors.

Mr. Bikash Ranjan Bhattacharya, Sr. Adv.

Ms. Santi Das

Mr. R. D. Bhowmick

.....for the appellants

Ms. Jyotshna Roy Mukherjee

Ms. Srijani Mukherjee

.....for the State

Mr. Sirsanya Bandopadhyay

Mr. Tirthankar Dey

Mr. Arka Kumar Nag

.....for the B.M.C.

1. This intra-Court appeal by the writ petitioner is directed against the dismissal of the writ petition by the impugned order dated 15th December, 2023, wherein the appellants prayed for payment of the bills raised by the appellants in respect of various works done for the respondent/Municipal Corporation.
2. As rightly held by the learned Single Bench, in a writ petition under Article 226 of the Constitution of India, Court cannot examine disputed questions of fact nor issue a direction for settlement of money claims. In this regard, it is beneficial to refer to the decisions of the Hon'ble Supreme Court in ***Eastern Coalfields Limited Vs. Ravi Udyog and Ors.*** reported in **1994**

Supp (2) SCC 466 and the decision in ***Bareilly Development Authority & Anr. Vs. Ajai Pal Singh & Ors.*** reported in ***(1989) 2 SCC 116***.

3. The learned senior advocate appearing for the appellants submitted that the claims submitted by the appellants was duly supported by completion certificate issued by the Executive Engineer of the respondent/Municipal Corporation and the respondent cannot deny payment to the appellants. In the writ petition, an affidavit-in-opposition had been filed denying and disputing the claims made by the appellants apart from stating that one of the claims made is for a work purported to have been done in the year 2012 and such a claim is hopelessly barred by limitation.
4. Thus, the ultimate conclusion arrived at by the learned Single Bench cannot be faulted. However, we are conscious of the fact that till date, the appellants have not been informed as to which of the claims made by them are admissible or inadmissible and if they are not admissible, the reason as to why they are not admissible.
5. Therefore, to that extent, we are inclined to issue appropriate direction to the respondent/Municipal Corporation subject to the condition that the appellants make a comprehensive representation to the said effect.

6. In the result, while declining to interfere with the findings rendered by the learned Single Bench in the impugned order and affirming the same, we grant liberty to the appellants to submit a comprehensive representation to the respondent/Municipal Corporation clearly setting out their claims and enclosing all relevant documents such as work orders, copies of the bills, completion certificate etc. and on receipt of the representation, the respondent/Municipal Corporation shall consider the same and pass a reasoned order on merits and in accordance with law and communicate the same to the appellants within a period of four weeks from the date on which the representation is submitted.
7. With the above observations/directions, appeal and the connected application stand disposed of.
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

(HIRANMAY BHATTACHARYYA, J.)