

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

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

M.A.T. 85 of 2025

With

CAN 1 of 2025

Rajesh Ali Khan & Ors.

vs.

The State of West Bengal & Ors.

For the Appellants

: Mr. Sabyasachi Chatterjee

Mr. Sayan Banerjee

Ms. Suparna Dutta

For the Respondent No. 4

: Mr. Chandrachur Chatterjee

For the State

: Mr. Amal Kumar Sen, A.G.P.,

Mr. Lal Mohan Basu

Heard and Judgment on

: February 5, 2025

DEBANGSU BASAK, J.:-

1. Appeal is at the behest of the writ petitioners and directed against an order dated January 15, 2025 passed in W.P.A. 997 of 2025.
2. By the impugned order, learned Single Judge disbelieved the claim of the writ petitioners that they were prevented by some local hooligans

in submitting earnest money deposit in the form of demand draft/pay orders with the relevant authorities in time.

3. Learned advocate appearing for the appellants submits that the appellant intended to participate in a tender process floated by the respondent no. 4. Appellants purchased relevant demand draft/pay orders for earnest money deposit in terms of the tender process. Appellants were prevented from depositing the earnest money deposit with the relevant authorities when appellants were accosted on the road on their way to deposit such earnest money deposit with the relevant authorities.
4. Learned advocate appearing for the appellants submits that a phone call was made to the police authorities and a General Diary was entered by the police authorities. Therefore, the learned Judge erred in disbelieving the claim of the appellants.
5. State and the respondent no. 4 are represented.
6. Learned advocate appearing for the State draws the attention of the Court to the previous report and submits that, the police authorities received a phone call at the time and the date on which the incident is alleged to occur. Such telephonic conversation was recorded as a General Entry.

7. Learned advocate appearing for the respondent no. 4 submits that subsequent to the passing of the appeal court's order, no further steps were taken by the respondent no. 4 on the tender process. He submits that there is some urgency in the tender process. The tender process needs to be finalized within 60 days. 40 days already expired.
8. We find from the materials on record that the appellants before us intended to participate in a tender process floated by the respondent no. 4 and purchased several demand drafts/pay orders for such purpose from banks. Appellants intended to deposit such demand drafts in terms and conditions of the tender process with the relevant authorities. However, on their way to deposit such demand drafts/pay orders, they were prevented to do so on January 8, 2025 by miscreants. Appellants made a phone call to the police authorities who received such phone call and entered a General Diary with regard to the same on that particular date. The factum of the General Diary appears from the report submitted in Court. Therefore, this conduct of the appellants does not permit us to draw an inference that they were not serious with the tender process and they were not prevented from depositing the earnest money deposit in terms of the tender process.
9. Tender process is yet to be completed.

10. In such circumstances, in the events the appellants before us are allowed to participate in the tender process, the same will enure to the benefit of the State and would be in public interest. A wider participation in a tender process is always beneficial and in public interest, as it allows a better discovery of price for the work.
11. In such circumstances, we permit the appellants before us to deposit the bank drafts as earnest money deposit in respect of the subject tenders with the relevant authorities. Appellants may do so by 16-00 hours on February 7, 2025. Relevant authorities will accept such deposit from the appellants in terms of the order if so tendered within the time fixed.
12. Authorities will proceed with the tender from the stage of participation of the tenderers in terms of the tender process with the appellant as the participants also.
13. We, however, clarify that the candidature of the appellants may be evaluated in terms of the tender process and that their candidature may be allowed or rejected depending on the evaluation of their candidature in terms of the tender process.
14. We expect that the tender process is completed as expeditiously as possible.

15. **M.A.T. 85 of 2025** and the connected application being **CAN 1 of 2025**

are disposed of without any order as to costs.

(Debangsu Basak, J.)

16. I agree.

(Md. Shabbar Rashidi, J.)

S.D.