

**IN THE HIGH COURT AT CALCUTTA
SPECIAL CIVIL JURISDICTION (CONTEMPT)
APPELLATE SIDE
COMMERCIAL DIVISION**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

AO-COM 64 of 2025

Dilip Kumar Chatterjee

vs.

State of West Bengal & Ors.

with

CAN 1 of 2025

CAN 2 of 2025

For the Appellant

**: Mr. Sakya Sen, Sr. Adv.,
Mr. Priyankar Saha
Mr. Hemant Tiwari
Ms. Pallavi Chatterjee**

For the State Respondent

**: Mr. Samrat Sen, Ld. AAA.G. & Sr. Adv.,
Mr. Arindam Mandal
Ms. Nilanjana Adhya**

Heard & Judgment on

: December 18, 2025

Debangsu Basak, J.:-

1. Appeal is at the behest of a plaintiff and directed against Order No. 4 dated December 6, 2025 passed in M.S. (COM) 35 of 2025 by the learned Judge, Commercial Court at Rajarhat.
2. Learned senior advocate appearing for the appellant submits that, the appellant was awarded a contract for strengthening of a road. He submits

that the design was faulty. Notwithstanding the execution of the work by the appellant by reason of the faulty design alleged defects are cropping up which the appellant is required to rectify. He submits that, the defects are not by reason of the workmanship of the appellant, but due to the faulty design.

3. Learned senior advocate appearing for the appellant submits that, the period for execution of the work was extended from time to time. In fact, subsequent to, the appeal being filed in the present case, there is an exchange of correspondences where time to complete the work was extended by the respondent.
4. Learned senior advocate appearing for the appellant submits that, an independent agency should be engaged for the purpose of inspecting and submitting a report as to the design and the quality of the work executed at the site.
5. Respondent is represented.
6. The appellant filed a suit claiming the following reliefs:-
 - “a) A Decree for a sum of Rs.5,46,65,652.00 against the defendants;
 - b) Interim and interest upon judgment @18% per annum till realization of the dues;
 - c) Declaration that the completion certificate dated 04.06.2025 issued by the defendant no. 3 stipulating 96% completion is null and void.

- d) Declaration that the plaintiff has completed 100% of the work as at 31.03.2025.
- e) Declaration that the suo-motu extensions granted by the defendants till 31.12.2025 is illegal;
Injunction directing the defendants to make payments of the Running Account Bills for the work done by the plaintiff;
Injunction restraining the defendants from forfeiting the Security Deposit of Rs.7,33,88,874/- submitted by the plaintiff;
- h) Injunction directing the defendants to return the Security Deposit of Rs.7,33,88,874/- to the plaintiff;
- i) Stay and/or setting aside of the show cause notice dated 11.07.2025 issued by the defendant no. 2;
- j) Injunction restraining the defendants, its men, agents and/or assigns from taking any steps in terms of the show cause notice dated 11.07.2025 issued by the defendant no. 2;
- k) Injunction restraining the defendants from taking any coercive action against the plaintiff pending disposal of the suit;
- l) Attachments;
- m) Cost;
- n) Other and further reliefs."

7. Appellant filed a petition under Order 39 Rule 1 and 2 of the Civil Procedure Code, 1908. The appellant in such petition prayed for the following reliefs:-

- "a) The respondents, its men, agents, servants and/or assigns be restrained from taking any step and/or further steps in terms of the show cause notice dated 11.07.2025;
- b) The respondents, its men, agents, servants and/or assigns be restrained from taking any coercive steps against the respondents pending disposal of the instant suit;
- c) The respondents, its men, agents and/or assigns be restrained from forfeiting the Security Deposit of Rs.7,33,88,874/- submitted by the petitioner;
- d) Ad-interim orders in terms of prayers above;

e) Such other and/or further order or orders be made and/or direction or directions be given as to this Hon'ble Court may deem fit and proper."

8. During the pendency of such suit and the first injunction petition, appellant received a notice dated December 1, 2025. By such notice, the respondent called upon the appellant to start rectification work and stated that failure to do so would involve initiation of stringent action against the appellant.

9. On receipt of such letter dated December 1, 2025, the appellant filed another petition under Order 39 Rule 1 and 2 of the Civil procedure Code, 1908 praying for the following reliefs:-

"a) The respondents, its men, agents, servants and/or assigns be restrained from taking any step and/or further steps in terms of the letter dated 01.12.2025 issued by the respondent no. 2 being Annexure "Q".

b) Ad-interim orders in terms of prayer above;

c) Such other and/or further order or orders be made and/or direction or directions be given as to this Hon'ble Court may deem fit and proper."

10. By the impugned order, learned Judge was pleased to dismiss the second injunction petition relating to the letter dated December 1, 2025.

11. The appellant as the plaintiff in prayer (d) of the plaint claims that it completed 100% of the work as on March 31, 2025. Appellant as the plaintiff is also seeking recovery of alleged amount due on account of bills

from the respondent. Apart therefrom, appellant is also seeking a declaration that the extension granted by the respondent till March 31, 2025 are illegal.

12. On the principles of *prima facie* case, balance of convenience and inconvenience, and irreparable loss, we find that the appellant as the plaintiff can be adequately compensated by way of money, if at all there is a breach of the contract by the respondent. Prayer portion of the plaint of the contains reliefs relating to Order 2 Rule 2 of the Civil Procedure Code, 1908.

13. Balance of convenience and inconvenience does not lie in favour of the appellant as the plaintiff. The nature of the work is strengthening of a road. It is in the interest of the public that the condition of the road is restored to normal. On the parity of the same reasoning issues of irreparable prejudice cannot be decided in favour of the appellant.

14. In view of the discussions above, we do not find any ground to interfere with the order impugned.

15. There is an application being CAN 2 of 2025 under Order 41, Rule 27 of the Civil Procedure Code, 1908 seeking to bring on record subsequent documents.

16. Since we are of the view that, the learned Single Judge did not err in not granting the impugned order, the documents sought to be introduced are subsequent to the order impugned, we are of the view that those documents need not be considered. Such application being **CAN 2 of 2025** is, therefore, **rejected**.

17. **AO-COM 64 of 2025** is **dismissed** without any order as to costs.

18. In view of the dismissal of AO-COM 64 of 2025, the application being **CAN 1 of 2025** is **disposed** of.

(Debangsu Basak, J.)

19. I agree

S.D.

(Md. Shabbar Rashidi, J.)