
(2016) 11 JH CK 0030
In the Jharkhand High Court
Case No : W.P. (C) No. 4220 of 2012

Kaushalya Infrastructure Development Corporation Ltd. APPELLANT
Vs
State of Jharkhand RESPONDENT

Date of Decision : 11-11-2016

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 1
Contract Act, 1872 — Section 126

Citation : (2017) 1 AIRJharR 38 : (2017) 2 JCR 423

Hon'ble Judges : Mr. Aparesh Kumar Singh, J.

Bench : Single Bench

Advocate : J.C to A.G, for the Respondents; M/s. Indrajit Sinha and Rohit Roy, Advocates, for the Petitioner

Final Decision : Disposed Off

Judgement

Mr. Aparesh Kumar Singh, J. - The matter has been taken up today on I.A. No. 7505 of 2016 on being mentioned due to an urgency shown by the petitioner.

2. By an earlier order dated 24th September, 2012, Respondent-State were restrained from en-cashing the Bank Guarantee submitted by the petitioner, if not already en-cashed. The interim order was extended subsequently thereafter.

3. On 6th March, 2013, on the prayer made through I.A. No. 1179 of 2013 by the respondents for seeking vacation of the interim order dated 24th September, 2012 on the plea that the Bank Guarantee is going to expire on 30th March, 2013, petitioner undertook to renew the same before its expiry. The Bank Guarantee was renewed thereafter and was to expire on 30th September, 2016. Petitioner claims to have requested the Indian Overseas Bank, Free School Street Branch, 6, Royd Street, Kolkata through letter dated 21st September, 2016 to extend/renew the Bank Guarantee to the tune of Rs. 1.90 Crores (approx.)

4. However, it is contended by the petitioner based upon the communication of the concerned Bank (Annexure-5) dated 3rd November, 2016 that the Bank

Guarantee has not been extended. It is submitted that the Bank in question has asked the petitioner to provide additional margin in the form of deposit to cover 100% margin on the guarantees enumerated in the said letter. It has been indicated therein that the sanction limit in favour of the petitioner has been withdrawn because Original Application no. 498 of 2016 have been preferred against the petitioner in DRT-I Kolkata. Petitioner has been informed that the Bank Guarantee is going to be invoked as the beneficiaries have lodged their claim. Petitioner contends that despite sincere steps taken by it before the date of expiry of Bank Guarantee, the Bank in question has refused to extend it putting the financial liquidity of the petitioner in jeopardy. Petitioner undertakes to extend the Bank Guarantee by complying with the requirement of the Bank in question.

5. Though a prayer for impleading the Bank has also been made through the instant I.A. the same is not being pressed further.

6. Counsel for the petitioner has submitted that as per instruction, the Bank Guarantee has not been en-cashed and remitted to the Account of respondent till date.

7. Counsel for the State submits that the condition stipulated while granting interim order in favour of the petitioner, should be strictly insisted upon. Respondents' interest should be protected during pendency of the writ petition.

8. I have considered the submission of the parties and relevant facts noticed herein above. It is hereby directed that petitioner should furnish the Bank Guarantee duly extended, with the respondent within a period of 3 weeks from today. In that event, the respondents shall not insist upon invocation of the Bank Guarantee during this period issued by the concerned Indian Overseas Bank, Free School Street Branch, 6, Royd Street, Kolkata. In case, petitioner fails to furnish the renewed Bank Guarantee within a period of 3 weeks from today, it would be open to the respondent to invoke the same.

9. The instant I.A No. 7505 of 2016 stands disposed of.

10. List the writ petition under the heading "For Admission" in the next month.