
(2020) 03 JH CK 0013
In the Jharkhand High Court
Case No : W.P.(C) No.877 Of 2020

M/s Akarshan Infradevelopers Pvt. Ltd	APPELLANT
Vs	
Bokaro Steel Officers Housing Co-operative Society Ltd	RESPONDENT

Date of Decision : 05-03-2020

Acts Referred:

Arbitration And Conciliation Act, 1996 — Section 9

Citation : (2020) 03 JH CK 0013

Hon'ble Judges : Anubha Rawat Choudhary, J

Bench : Single Bench

Advocate : Praveen Kumar, Pradipto Mitra

Final Decision : Dismissed

Judgement

1. This petition has been filed for the following reliefs:

i. For issuance of writ in the nature of mandamus or any other appropriate writ, order directing the respondent Society to secure the

amount under the outstanding bills for Rs.14,90,79,074/-(Rupees fourteen crores ninety lakhs seventy nine thousand and seventy four only)

submitted till November, 2019 by directing the respondent society to furnish adequate security/bank guarantee to the petitioner, to the

satisfaction of this Honâ??ble court and/or by attaching the unsold units/putting a first lien/first charge on the unsold units and their

receivable in the Bokaro Steel Officers Housing Co-operative Society (Subject Project) during the pendency of the arbitration proceedings:

and

ii. directing the respondent society to pay the amount to the tune of Rs.14,90,79,074/- (Rupees Fourteen Crores Ninety Lakhs Seventy Nine

Thousand and Seventy Four Only) to the petitioner towards the bills submitted till November, 2019; and/or

iii. restrain the respondents from awarding the remaining work in the project to any third party till disposal of the present petition.

iv. appoint an engineer/local commissioner for conducting joint measurement of the unbilled work in progress.

v. direct the respondent society to pay Rs.10,00,000/- p.m towards set up cost which is being incurred for watch & ward staff at project

site.â??

2. Heard the learned counsel appearing on behalf of the petitioner.

3. Learned counsel for the petitioner submits that as per the office note, typed copies of certain pages were required to be furnished, but it was

pointed out by the learned counsel to the office that the petitioner would not rely upon the documents for which typed copies were to be filed.

However as on today the defect has been removed.

4. Learned counsel for the petitioner submits that the entire dispute arises out of an arbitration agreement between the parties dated 25.01.2014. The

learned counsel further submits that the petitioner has filed a petition under Section 9 of the Arbitration and Conciliation Act, 1996 before the court of

learned Civil Judge (Sr. Division), Bokaro on 31.01.2020 and the petitioner has been constrained to move this Court for the relief as prayed for, as

there is no Presiding Officer in the court of Civil Judge Senior Division, Bokaro Civil Court and considering the urgency of the matter, the present writ

petition has been filed. The case was initially numbered as Miscellaneous Arbitration Case No.4 of 2020.

5. Upon this, the learned Registrar General of this Court was called for to find out the correct status. It has been pointed out by the learned Registrar

General that vide notification dated 29th June, 2016, the jurisdiction of Commercial Court Dhanbad has been extended to North Chotanagpur Division

as well as Santhal Pargana Division and court of Bokaro falls within the extended jurisdiction of Commercial Court, Dhanbad for the purposes of

commercial disputes under the provisions of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Court Act,

2015 (hereinafter referred to as the Act of 2015).

6. It is not in dispute that the petition under Section 9 of the Arbitration and

Conciliation Act, 1996 is to be filed before the Commercial Court

constituted under the provisions of Commercial Courts, Commercial Division and Commercial Appellate Division of the High Court Act, 2015.

7. Upon this, learned counsel for the petitioner seeks permission to withdraw the present writ petition with a liberty to move the Commercial Court,

Dhanbad for the appropriate relief by filing a fresh case.

8. Permission is accorded.

9. This writ petition is dismissed as withdrawn. It is made clear that withdrawal of this petition will not prejudice the case of the petitioner in any

manner and it will be open to the petitioner to file a fresh case before the commercial court at Dhanbad and the petitioner shall withdraw the case filed

at Bokaro as soon as the Presiding Officer of the Civil Judge of Senior Division joins.

10. Let this order be communicated to the court of learned Civil Judge, Senior Division, Bokaro.