
(2023) 05 PAT CK 0016

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 5197 Of 2023

M/S U And M Enterprises

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 04-05-2023

Acts Referred:

Citation : (2023) 05 PAT CK 0016

Hon'ble Judges : Rajeev Ranjan Prasad, J

Bench : Single Bench

Advocate : Bhola Kumar, Kameshwar Pd. Gupta, A. Karim

Final Decision : Disposed Of

Judgement

1. Heard learned counsel for the petitioner and learned counsel for the State.

2. Petitioner in the present case is seeking the following reliefs:-

"a) To direct the Respondents Authorities to make payment of Security Deposit amounting to Rs. 21, 52, 154/- [Rupees Twenty One Lakhs Fifty Two Thousand On Hundred and Fifty Four only] with respect to Agreement No. 01 SBD/ NABARD/ 2016-17 dated 13.05.2016 which has been illegally withheld by the Respondent Authorities despite the fact that the work has been satisfactorily completed by the Petitioner on 12.06.2017 itself and the defect liability and maintenance period.

b) For further direction upon the Respondent Authorities to pay penal interest to the Petitioner for illegally withholding Security Deposit of the Petitioner, without any reasonable cause, till the date of actual disbursement of the amount in the bank account of the Petitioner.

c) To pass any other order/orders in shape of a consequential relief to which the Petitioner may be found to be legally entitled to in the facts and circumstances of the instant case at hand."

3. It is not in dispute that towards refund of the security deposit of the petitioner, a cheque of Rs. 21,52,154/- was issued by the respondents in favour of the petitioner vide cheque bearing No. 088561 dated 21.06.2022. The said cheque was presented for payment but the cheque was returned unpaid as there was insufficient balance in the bank account of the respondent department on 21.06.2022.

4. There is no denial of the fact that the petitioner went to concerned respondents and requested them to re-issue the cheque or make payment of the remaining security deposit of Rs. 21,52,154/- at the earliest but the respondent authorities failed to take any step and make payment to the petitioner. In this regard, a representation dated 13.12.2022 as contained in Annexure 'P6' was also submitted with the respondents but that remained pending.

5. In the aforementioned circumstance, the petitioner was constrained to file the present writ application. On 26.04.2023, after noticing that the cheque issued by the Executive Engineer, Rural Works Department, Works Division, Jhajha had stood dishonoured for want of sufficient funds, this Court directed the Chief Engineer, Public Works Department to be present in person to explain as to why the amount of the contractor is not being released.

6. Today, the Chief Engineer is present. This Court has been informed that the respondent authority has made payment of Rs. 21,52,154/- on 28.04.2023.

7. Learned counsel for the petitioner submits that this Court may appreciate the predicament of the petitioner that for his own money which he had deposited by way of security deposit with the respondents, he had to fight a case up to this Court, in the process he has not only suffered loss and damages but has also undergone mental agony and incurred cost on litigation. Prayer has been made to direct the respondents to pay at least interest at the bank's rate and cost of litigation.

8. The Chief Engineer of the Department tried to explain the reason from Annexure 'A' to the counter affidavit stating that the cheque was dishonoured by the bank as earlier TDS demand from the Income Tax Department was made and on that account Rs. 11,90,680/- was attached.

9. In the given facts and circumstances of this case, this Court finds from Annexure 'A' to the counter affidavit that TDS Department had issued a TDS demand as back as on 20.03.2018 for Rs. 11,90,680/-, the said amount is said to have been attached. So far as the present case is concerned, in this case the cheque was issued on 21.06.2022 i.e. after more than four years, therefore, the fact that Rs. 11,90,680/- was attached in the year 2018 cannot be said to be a plausible ground to justify the dishonour of the cheque issued in favour of the petitioner after more than four years.

10. This Court is, therefore, of the considered opinion that due to the dishonour of cheque issued in favour of the petitioner and delay in payment of the said

amount by the respondents, the petitioner has been deprived of his own money and in such circumstance, he is entitled to get at least interest at the bank rate and cost of litigation.

11. This Court, therefore, directs the respondents to pay interest at the rate of 6% per annum on the amount of Rs. 21,52,154/- from the date of issuance of the cheque which stood dishonoured till the date of payment i.e. 28.04.2023. For compelling the petitioner to contest this issue by filing a writ application, this Court further directs the respondents to pay cost of litigation which is assessed at Rs. 10,000/- payable to the petitioner.

12. Let the entire amount on account of interest and cost be paid to the petitioner within a period of one month from the date of receipt/production of a copy of this order.

13. The Chief Engineer is at liberty to realise the amount of interest and cost of litigation from the erring officials in accordance with law.

14. This application stands disposed of accordingly.