
(2010) 08 JH CK 0021

In the Jharkhand High Court

Case No : Writ Petition (C) No. 2708 of 2010

Ujjal Transport Agency

APPELLANT

Vs

Coal India Limited and Others

RESPONDENT

Date of Decision : 12-08-2010

Acts Referred:

Citation : (2010) 4 JLJR(Jhar) 344 : AIR 2011 Jhar 34

Hon'ble Judges : R.K. Merathia, J

Bench : Single Bench

Judgement

Ramesh Kumar Merathia, J.—Mr. A.K. Sinha, learned senior counsel appearing for the Petitioner, submitted that the only grievance of the Petitioner is that the Respondents should not encash the bank guarantee furnished by the Petitioner as earnest money to the tune of Rs. 5,67,300/- (Rupees five lacs sixty seven thousand three hundred). He submitted that when the Petitioner submitted its tender, there was no objection by the Forest Department, but, later on, by letter dated 10.5.2010 (Annexure 8), it refused to grant permission to Respondent No. 5 for cutting of 82 trees standing over the area of 9.79 hectares of land, over which the work in question, as per the tender, was to be done and, therefore, in the absence of clearance from the Forest Department, the Petitioner cannot proceed in terms of the letter dated 22.3.2010 (Annexure 1) issued by Respondent No. 4. He relied on a decision of the Supreme Court in Haryana Financial Corporation and Another Vs. Rajesh Gupta, .

2. On the other hand, Mr. A.K. Mehta, learned Counsel appearing for Respondents No. 3, 4 and 5, referring to paragraph 19 of the counter affidavit, submitted that more than 7 hectares of land does not bear any tree and, therefore, there is no impediment in commencing the work by the Petitioner. He further submitted that the Petitioner was required to satisfy itself before offering bid about, its responsibility, cost and risk, in terms of Clause 6.1 of instructions to bidders.

3. After hearing the parties, in my opinion, the Respondents cannot invoke the

bank guarantee and forfeit the earnest money of the Petitioner.

4. Mr. A.K. Mehta could not dispute that the said 7 hectares land is within the 9.79 hectares of land, about which the Forest Department has issued the said letter dated 10.5.2010.

5. Moreover, there is nothing to show that on the date when the Petitioner furnished his bid, there was any objection by the Forest Department, rather the request on behalf of the Respondents for cutting the trees was pending which request was rejected on 10.5.2010 only.

6. It was informed that one public interest litigation is pending in this Court objecting to felling of trees in the said area in which the Respondents are also party.

7. Mr. A.K. Sinha also submitted on instructions from the Petitioner that the Petitioner cannot wait for indefinite period for taking further steps in execution of work in terms of the letter dated 22.3.2010 (Annexure 1).

8. In the circumstances, the Respondents are directed not to enforce the bank guarantee for realisation of earnest money of Rs. 5,67,300/- (Rupees five lacs sixty seven thousand three hundred) from the Petitioner. The Respondents may advertise fresh tender after the legal impediments for execution of the work in question is over.

With these observations and directions, this writ petition is disposed of. However, no costs.