

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2610 OF 2019
(Arising out of SLP (C) No. 29505 of 2014)

M/S SURYA CONSTRUCTIONS

Appellant(s)

VERSUS

THE STATE OF UTTAR PRADESH & ORS.

Respondent(s)

O R D E R

Leave granted.

Having heard learned counsel for all the parties, we find that the present is a case in which payment for extra work by the Uttar Pradesh Jal Nigam has not been made though such work was expressly sanctioned and done to their satisfaction. The appellant before us has had to run from pillar to post to get the money owed to them. By an order dated 21.10.2013, the High Court asked the appellant to make a representation and finally, in a contempt petition moved on 07.02.2014, directed the Uttar Pradesh Jal Nigam to answer this representation. The representation so made was answered by the Uttar Pradesh Jal Nigam as follows:

Signature Not Verified
Digitally signed by
NIDHI AHUJA
Date: 2019.03.13
17:24:52 IST
Reason: 

"Due to aforesaid facts and description it is clear that Rs.113.29 lacs has to be released by Government/Mela Administration against the Budget presented by U.P. Jal Nigam, Magh Mela 2008-09.

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There is no money available under account of Magh Mela 2008-09 of U.P. Jal Nigam. And could not obtained the rest of amount from the Mela Administration/Government. Therefore, payment regarding M/s. Surya Construction, 323/3, Alopibagh, Allahabad will be paid after availability of the money from the Government."

It is clear, therefore, from the aforesaid order dated 22.03.2014 that there is no dispute as to the amount that has to be paid to the appellant. Despite this, when the appellant knocked at the doors of the High Court in a writ petition being Writ Civil No. 25216/2014, the impugned judgment dated 02.05.2014 dismissed the writ petition stating that disputed questions of fact arise and that the amount due arises out of a contract. We are afraid the High Court was wholly incorrect inasmuch as there was no disputed question of fact. On the contrary, the amount payable to the appellant is wholly undisputed. Equally, it is well settled that where the State behaves arbitrarily, even in the realm of contract, the High Court could interfere under Article 226 of the Constitution of India [*'ABL International Ltd. and Another v. Export Credit Guarantee Corporation of India Ltd. and Others'* (2004 (3) SCC 553)].

This being the case and the work having been completed long back in 2009, we direct the Uttar Pradesh Jal Nigam to make the necessary payment within a period of four weeks from today. Given the long period of delay, interest at the

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rate of 6 per cent per annum may also be awarded.

The appeal stands disposed of accordingly.

....., J.
[ROHINTON FALI NARIMAN]

....., J.
[VINEET SARAN]

New Delhi;
March 08, 2019.

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ITEM NO.44

COURT NO.5

SECTION XI

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No. 29505/2014
(Arising out of impugned final judgment and order dated 02-05-2014
in WC No. 25126/2014 passed by the High Court of Judicature at
Allahabad)

M/S SURYA CONSTRUCTIONS

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH & ORS.

Respondent(s)

(With appln(s) for exemption from filing O.T.)

Date : 08-03-2019 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN
HON'BLE MR. JUSTICE VINEET SARAN

For Petitioner(s) Mr. Tripurari Ray, Adv.
Mr. Vikram D. Chauhan, Adv.
Mr. Balwant Singh Billowria, Adv.
Mr. Rajesh Singh, Adv.
Mr. Shashi Bharat Bhushan, Adv.
Mr. Praveen Kumar, Adv.
Ms. Shilpa Singh, AOR

For Respondent(s) Dr. Sumant Bharadwaj, Adv.
Ms. Mridula Ray Bharadwaj, AOR
Mr. Y. R. Mishra, Adv.
Ms. Rinchen Wangmo, Adv.
Mr. Vedant Bharadwaj, Adv.
Mr. Amol Chitravanshi, Adv.

Mr. V. Shekhar, Sr. Adv.
Mr. Rajeev Kumar Dubey, Adv.
Mr. Ashutosh Sharma, Adv.
Mr. Kamendra Mishra, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal stands disposed of in terms of the signed
order.

Pending application stands disposed of.

(NIDHI AHUJA)
COURT MASTER (SH)

(RENU DIWAN)
ASSISTANT REGISTRAR

[Signed order is placed on the file.]