

DULY SWORN ON: 26-10-2024

**Further CROSS-EXAMINATION BY Sri.KBS THE COUNSEL
FOR Defendant-1 & 2 :**

1. It is true to suggest that I have answered as “I don’t know” for various questions put to me on the previous date of cross-examination because I do not have the documents based on which I can give answers to those questions.

2. It is true to suggest that the letterhead on which the work order at Exhibit P2 is issued does not make mention of the name of defendant number 1. It is true to suggest that the letterhead of Exhibit P2 belongs to defendant No. 3. It is true to suggest that the work order value of Rs. 3.33 crores is inclusive of tax which means that it is inclusive even of GST. Witness volunteers said at that time GST regime was not there and it was VAT tax. It is true to suggest that subsequently the GST regime came into force and therefore work order value should be deemed to be inclusive of GST also. It is true to suggest that as required under the work order, we have not issued the bank guarantee.

3. It is true to suggest that as per the work order the work had to be completed within 30 months which means work should have been completed within 6-10-2016. I do not know if it is suggested to me that as per the work order, since work order value included charges for loading, unloading and storage of materials, if any expenditure was incurred for the said heads, same would have to be defrayed by the plaintiff. Now, after looking into paragraph 5 of Exhibit P2, witness admits that the expenditure for loading, unloading and storage of materials has to be borne by the plaintiff / contractor.

4. It is true to suggest that defendants are entitled to retain 5% of the work order value as retention money. I do not know if it is suggested to me that plaintiff has never communicated the test result reports to the consultant for the project by name H.M. Nagesh. I do not know if it is suggested to me that consultant has not issued completion

certificate for this project. If it is suggested to me that if the plaintiff does not clear the debris at the spot, the same can be cleared by the defendants and the plaintiff will be liable to refund the expenditure for the same, I say it is so if the defendants give proper documents for the same and if the same is approved by the project manager of the plaintiff. It is true to suggest that the defendants can charge the plaintiff for the electricity consumed. Witness volunteers, it is subject to defendants issuing proper debit note with proper documents and subject to same being approved by manager of the plaintiff.

5. If I am asked that work order is signed by two GPA holders and which among the said GPA holders was authorized to represent defendant number 1, I say I do not know. Plaintiff does not have the copies of the said two GPAs. I do not know if it is suggested to me that neither of the two parties who have signed as GPA holders were the owner of

the property where the work was carried out. If I am asked that the letterhead of exhibit P2 is that of D3 and whether defendant number 1 had any GPA to represent D3 to issue work order on behalf of D3, I say I do not know.

6. It is true to suggest that as per paragraph 8 of general conditions of contract at page 99, if any expenditure is incurred by the defendants toward the work order, the same can be recovered from the plaintiff. Witness volunteers, this is subject to producing necessary documents and subject to approval of Plaintiff's manager. If it is suggested to me that till date plaintiff has not reimbursed the defendants for such expenditure incurred, I say defendants have already deducted Rs. 25 lakhs and odd from the bill.

7. If I am asked whether the principal suit claim of Rs. 63.81 lakhs includes the said Rs. 25 lakhs which I have stated was deducted from the bill, I say after deduction of the said amount, plaintiff is entitled to the suit claim. The suit

claim is made in the present suit after considering the said deduction of Rs. 25 lakhs.

8. I do not know if it is suggested to me that as per Exhibit P3, plaintiff has charged excess amounts towards fluctuation of prices. I do not know if it is suggested to me that in case excess amounts towards fluctuation of prices is charged by the plaintiff, the same can be recovered from the bill amount. Now, the above question is repeated after drawing attention of the witness to paragraph 12 of Exhibit P2 and after looking into said paragraph 12, again witness says, I do not know.

9. It is true to suggest that Plaintiff has not furnished bank guarantee towards virtual completion certificate. It is true to suggest that virtual completion certificate has not been issued. It is false to suggest that the defects liability period is not over even as on date. It is true to suggest that defendant number 3 was the project management consultant

of the project. I do not know if it is suggested to me that plaintiff has not given any written notice towards delay in completion of the project. It is true to suggest that project was not completed early.

10. I do not know if it is suggested to me that plaintiff has not received any oral or written instructions from D1 and D2 during the course of the project. I do not know if it is suggested to me that plaintiff has not intimated D1 and D2 about the progress in the project. I do not know if it is suggested to me that all instructions in respect of the project was issued to the plaintiff by D3. I do not know if it is suggested to me that coordination meetings of the plaintiff were only held with the project management consultant i.e. D3 and sewage Works Consultant. I do not know if it is suggested to me that Plaintiff was receiving all instructions from engineer in charge of d3. If it is suggested to me that all above answers given by me professing ignorance to the

suggestions is because I do not have documents on the basis of which to answer the question, I say I am a person from accounts department and therefore I do not know. I cannot produce documents to throw light on the questions to which I have answered as "I do not know". The suit claim is for balance amount due to the plaintiff based on the calculation as per all the terms of the contract. Again, witness says it is as per the books of account. If it is suggested to me that books of account of the plaintiff is maintained as per the terms of the contract, I say it is maintained as per the billing.

Cross-examination by Counsel for D4:- Counsel for D4 seeks time and hence deferred.

**(Computerized to my dictation in the Open Court as
deposed by the Witness)**

R.O.I. & A.C.,

(SUDINDRANATH.S.)
LXXXIII ADDL. CITY CIVIL & SESSIONS JUDGE,
BENGALURU.