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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Cont.Cas(C)/579/2024

MUSLIM ALI
S/O- LATE MAKBUL ALI, R/O- SUNDARBARI, P.S. JALUKBARI, GUWAHATI-
781014, DIST. KAMRUP(M), ASSAM

VERSUS

CHANDAN SARMA AND 3 ORS.
COMMISSIONER AND SPECIAL SECRETARY TO THE GOVT. OF ASSAM,
PUBLIC WORKS DEPARTMENT (ROADS), DISPUR, GHY-781006.

2:ABDUL MATIN CHOUDHURY
CHIEF ENGINEER
P.W.D. (BORDER ROADS)
ASSAM
CHANDMARI
GHY-781003.

3:BHUPEN MALAKAR
SUPERINTENDING ENGINEER
PWD
BARPETA ROAD CIRCLE
BARPETA
PIN- 781301.

4:MD. ZAKIR HUSSAIN
EXECUTIVE ENGINEER
PWD (ROADS)
BARPETA
BAGHBAR AND CHENGA TERRITORIAL ROAD DIVISION
BARPETA
ASSAM
PIN- 781301

For the Petitioner(s) : Mr. P. Sarmah, Advocate

For the Respondent(s) : Mr. A. Chaliha, Advocate

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 23.07.2025

Heard Mr. P. Sarmah, the learned counsel appearing on behalf of the petitioner and Mr. A. Chaliha, the learned counsel appearing on behalf of the respondent Nos. 1 and 2.

2. The present proceedings have been filed by the petitioner alleging willful and deliberate violation to the judgment and order dated 24.11.2023 passed in WP(C) No.5305/2022 as well as the order dated 06.03.2024 passed in I.A.(Civil) No.3825/2023.

3. It is relevant to take note of that vide a detailed judgment and order dated 24.11.2023, WP(C) No.5305/2022 was disposed of with a direction to release the amount of Rs.22,50,799/- to the petitioner within a period of 15 days from the date a certified copy of the judgment and order was served. In addition to that, this Court had further directed the respondent No.3 in the said writ proceedings to carry out necessary verification in respect to the 3rd R.A. Bill and if it found that the petitioner is entitled to the amount of Rs.2,00,000/- the same be released to the petitioner within a period of 3 months from the date of receipt of the certified copy of the said judgment and order. Paragraph Nos. 21 and 22 of the said

judgment being relevant are reproduced herein under:

“21. Consequently, this Court directs the Respondent PWD authorities to release the amount of Rs.22,50,799/- to the Petitioner which have been deducted from the bills of the Petitioner on account of Forest Royalty within a period of 15 days from the date a certified copy of the instant judgment is served.

22. This Court further had taken note of that the Petitioner claims a further amount of Rs.2,00,000/- which have been alleged to have been illegally withheld from the 3rd R.A. Bill. It is not known for what reason(s) the said amount had been withheld and the Respondents in spite of various opportunities being given have not filed any affidavit disclosing the reasons. Under such circumstances, this Court therefore directs the Respondent No.3 to make necessary verification as to why the amount of Rs.2,00,000/- have been withheld from the 3rd R.A. Bills of the Petitioner; and taking into account Clause 39.1 of the tender conditions, directs Respondent No.3 after carrying out necessary verifications, if it is found that the Petitioner is entitled to, the same be released to the Petitioner within a period of 3 (three) months from the date of receipt of the certified copy of the instant judgment.”

4. The petitioner thereupon submitted the said judgment and order dated 24.11.2023 to all the respondents herein which was duly received on different dates in the month of December, 2023 itself.

5. Subsequent thereto, the petitioner filed an application before this Court seeking correction of the judgment and order dated 24.11.2023 passed in WP(C) No.5305/2022 to the effect that the date mentioned in the 3rd RA Bill should have been 21.08.2020 and not 21.08.2006. This Court after hearing both the parties, made the said correction and it was

observed that the 3rd RA Bill should be read as dated 21.08.2020.

6. This Court vide the said order dated 06.03.2024 had extended the period as mentioned in paragraph Nos. 21 and 22 of the judgment and order dated 24.11.2023 and observed that the period so mentioned shall be counted from the date of submission of a certified copy of the order dated 06.03.2024. The said order dated 06.03.2024 was submitted to the respondents herein vide registered post and from the track consignment provided by the Indian Post, it appears that the same were delivered on 15.06.2024. It is the allegation of the petitioner that in spite of the period having expired, the respondents herein did not take steps for compliance with the directions so passed in the judgment and order dated 24.11.2023 read with the order dated 06.03.2024 and as such, the present proceedings have been filed.

7. The record reveals that this Court vide an order dated 08.11.2024 issued notice. On behalf of the respondents, Mr. B. Gogoi, the learned Standing counsel appeared on 19.02.2025 and sought time to provide instructions as to why the order dated 24.11.2023 have not been complied with. The record reveals that from time to time, the learned counsel for the respondents sought for time. On 06.06.2025, when the matter was listed, the counsel who represented the respondent Nos. 1 and 2 assured this Court that the affidavit-in-opposition would be filed positively within 3 (three) weeks from 06.06.2025 and on the basis of the said assurance, this Court fixed the matter after 3 (three) weeks. This Court further observed that if the affidavit-in-opposition is not filed, necessary order as required would be passed for securing the appearance of the respondents.

8. Today, when the matter has been taken up, it is seen that the affidavit-in-opposition to be filed by the respondents have not yet been filed. This Court enquired with Mr. A. Chaliha, the learned counsel who represents the respondents as to why the affidavit-in-opposition was not filed as well as why the judgment and order dated 24.11.2023 passed by this Court have not been complied with. The learned counsel for the respondents submitted that as per his instructions, the respondents herein are contemplating of filing an appeal against the judgment and order dated 24.11.2023 as well as the order dated 06.03.2024. This Court further enquired as to whether any appeal has been preferred in the meantime. The learned Standing counsel submitted that to his knowledge, no appeal has been filed.

9. This Court finds it very pertinent to observe that on 24.11.2023, this Court granted 15 days time to the respondents to refund the amount of Rs.22,50,799/- and further to verify as regards the entitlement of the petitioner in respect to the claim of Rs.2,00,000/- which the petitioner claimed to have been illegally deducted from 3rd RA Bill and the said exercise was to be completed within a period of 3 (three) months.

10. The respondents herein in spite of having knowledge of the judgment and order and the directions so passed therein have decided not to comply with the directions as would be apparent from the submission so made by Mr. A. Chaliha, the learned counsel. The said actions on the part of the respondents prima facie appears to undermine the authority of this Court which in effect touches on the violation of the Rule of Law. It appears from the submission made by the learned counsel for the respondents that the respondents have no inclination to

abide by the directions passed by this Court. Therefore, the action on the part of the respondents are prima facie contemptuous.

11. Be that as it may, considering the fact that the respondents have not filed any pleadings in the instant proceedings and the prima facie opinion is arrived at on the basis of the oral submissions so made by the learned counsel for the respondents, this Court for the interest of justice, fixes this matter again on 28.07.2025 at 10:30 AM for appearance of all the respondents through video conferencing link to be provided by Mr. A. Chaliha, the learned counsel.

12. This Court puts the said respondents to notice that this Court would enquire on the next date so fixed as to why the judgment and order dated 24.11.2023 and the order dated 06.03.2024 have not been complied with. It is observed that in the eventuality the respondents do not provide a justifiable cause, appropriate orders would be passed.

13. List accordingly.

JUDGE

Comparing Assistant