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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICITON

I.A.No.3 in

CIVIL APPEAL NO.6211 OF 2013

(Arising out of S.L.P.(C) No.4969 of 2011)

ASHOK

Appellant(s)

VERSUS

STATE OF MAHARASHTRA & ORS.

Respondent(s)

O R D E R

Leave granted.

We have heard Mr. Jayant Bhushan, learned senior counsel for the applicant-appellant and Mr. Sanjay Kharde, learned counsel for the respondents-State in detail. The grievance of the applicant-appellant is that despite orders passed by this Court joint measurements have not taken place until now. This submission of the applicant-appellant is strongly contested on behalf of the respondents-State whose assertion is that the applicant-appellant had failed to appear on the given date and, therefore, measurements had to be taken in his absence. It is also submitted by learned counsel for the State, on instruction from the Executive Engineer, that measurements shall be taken once again, if so directed.

To put the controversy at an end we direct the Chief Engineer, Public Works Department, Aurangabad, to constitute a fresh Committee comprising three officers, who shall proceed to the site in question and record measurements of the work undertaken by the appellant in his presence within two weeks from today. In the event the applicant-appellant fails to appear or participate in this exercise, the Committee so constituted shall proceed in the matter with expedition and record the measurements, and forward a copy thereof to the applicant-appellant.

With these directions, I.A.No.3 as well as appeal is disposed of leaving the liberty to the applicant-appellant to seek such redress as may be available to it in law for payment of compensation or damages, if any, for the alleged wrongful termination of the contract.

.....J.
(T.S. THAKUR)

.....J.
(VIKRAMAJIT SEN)

NEW DELHI

DATED 29th July, 2013.

ITEM NO.5

COURT NO.7

SECTION IX

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

IA 3/2013 in

Petition(s) for Special Leave to Appeal (C) No(s).4969/2011

(From the judgement and order dated 07/02/2011 in WP No.11288/2010 of The HIGH COURT OF BOMBAY AT AURANGABAD)

ASHOK

Petitioner(s)

VERSUS

STATE OF MAHARASHTRA & ORS.

Respondent(s)

(With appln(s) for directions and prayer for interim relief and office report)

(I.A No.3 "For Direction with Office Report" is listed only)

Date: 29/07/2013 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MR. JUSTICE VIKRAMAJIT SEN

For Petitioner(s) Mr. Jayant Bhushan, Sr. Adv.
Mr. Dilip Annasaheb Taur, Adv.
Mr. Amol V. Deshmukh, Adv.
Mr. Anil Kumar, Adv.

For Respondent(s) Mr. Sanjay Kharde, Adv.
Ms. Asha Gopalan Nair, Adv.

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

Leave granted.

We have heard Mr. Jayant Bhushan, learned senior counsel for the applicant-appellant and Mr. Sanjay Kharde, learned counsel for the respondents-State in detail. The grievance of the applicant-appellant is that despite orders passed by this Court joint measurements have not taken place until now. This submission of the applicant-appellant is strongly contested on behalf of the respondents-State whose assertion is that the applicant-appellant had failed to appear on the given date and, therefore, measurements had to be taken in his absence. It is also submitted by learned counsel for the State, on instruction from the Executive Engineer, that measurements shall be taken once again, if so directed.

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With these directions, I.A.No.3 as well as appeal is disposed of leaving the liberty to the applicant-appellant to seek such redress as may be available to it in law for payment of compensation or damages, if any, for the alleged wrongful termination of the contract.

|(Mahabir Singh)
| Court Master

|(Veena Khera)
| Court Master

(Signed order is placed on the file)