

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

I.A. NOS.3-4 OF 2012 IN

Petition(s) for Special Leave to Appeal (Civil) No(s).23929-23930/2011

(From the judgement and order dated 05/07/2011 in WA No.4036/2011,
WP No.10793/2011 of The HIGH COURT OF KARNATAKA AT BANGALORE)

S.S.RANGE GOWDA

Petitioner(s)

VERSUS

CAUVERY NEERAVARI NIGAMA NIYAMITHA & ORS

Respondent(s)

(With appln(s) for vacating stay and office report)

Date: 24/08/2012 These Petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ALTAMAS KABIR
HON'BLE MR. JUSTICE J. CHELAMESWARFor Petitioner(s) Mr. Basava Prabhu S. Patil, Sr. Adv.
Mr. B. Subrahmanya Prasad, Adv.
Mr. Anirudh Sanganeria, Adv.
Mr. R.D. Upadhyay, AORFor Respondent(s) Mr. Naveen R. Nath, AOR
Nos.1 to 4 Mr. Darpan K.M., Adv.For R-5 Mr. Naik H.K., Adv.
Mr. B.V. Bhandarkar, Adv.
Mr. V.N. Ragupathy, Adv.
Mr. Naresh Kumar, AORUPON hearing counsel the Court made the following
O R D E R

I.A. Nos.3-4 of 2012, filed on behalf of the respondent Nos.1 to 4, for vacating the interim order passed by this Court on 9th September, 2011, are taken up for consideration.

Learned counsel appearing in support of the application has urged that the petitioner, who had on 9.2.2010 agreed to complete the left-over work at a reduced rate of "1% on the present price list (S.R.)", had, thereafter, failed to execute the supplementary agreement which had been forwarded by the said respondents and, consequently, the said respondents had no other option, but to invite fresh tenders for the remaining work, which was ultimately awarded to the respondent No.5 in the special leave petition.

It has also been submitted that the demand of the petitioner was that the intention of the letter of 9th February, 2010, was that the standard rate of "the present price list" was meant to include the revised price list, which came into effect subsequently on 15th June, 2010.

However, on account of the stay granted by this Court, the work has already been held up, despite the fact that the award for the balance left over work has been awarded to the respondent No.5. On behalf of the petitioner in the special leave petition, it has been contended that the petitioner had not executed the supplementary agreement, which had been forwarded by the respondents, on account of the delay caused by the respondents themselves, which entitled the petitioner to the standard rates, as was existing not on the date of its letter, but on the date when the agreement was sought to be forwarded to the petitioner.

It has also been submitted that in the special leave petition, the petitioner has also questioned the penalty, which has been sought to be imposed on the petitioner in spite of the default of the respondents themselves.

Having heard learned counsel for the parties, we are inclined to vacate the interim order, which was passed earlier, to the extent that the contract which has been awarded to the respondent No.5, may be acted upon, subject to the final result in the special leave petition.

The interlocutory applications are disposed of accordingly, but, let the special leave petition itself be listed for final disposal at an early date.

The stay granted by the High Court with regard to levy of the penalty, shall continue in the meantime.

Leave granted to file additional documents.

|(Chetan Kumar)
|Court Master

|(Juginder Kaur)
|Assistant Registrar

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