

Ashok Kumar Choudhary Vs. the State of Bihar and ors.

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Court : Patna

Decided On : Sep-09-2005

Judge : S.K. Katriar, J.

Appeal No. : CWJC No. 10489 of 2003

Appellant : Ashok Kumar Choudhary

Respondent : The State of Bihar and ors.

Advocate for Def. : Alok Kumar, Adv. and Prasoon Sinha, Adv. for the Respondent Nos. 2 to 5

Advocate for Pet/Ap. : Surendra Kumar, Adv.

Prior history : S.K. Katriar, J. 1. Heard learned Counsel for the parties. According to the writ petition, the petitioner had entered into three contracts with the respondent corporation on 04.07.1998 which are on record as part of Annexure B to the Counter Affidavit. The petitioner complains before this Court that the work was completed as per the specifications but the full payment is not being made to him nor the security amount is refunded. The respondents have placed on record their counter affidavit and

Judgement :

S.K. Katriar, J.

1. Heard learned Counsel for the parties. According to the writ petition, the petitioner had entered into three contracts with the respondent corporation on 04.07.1998 which are on record as part of Annexure B to the Counter Affidavit. The petitioner complains before this Court that the work was completed as per the specifications but the full payment is not being made to him nor the security amount is refunded. The respondents have placed on record their counter affidavit and have opposed the writ petition.

2. Mr. Prasoon Sinha, learned Counsel for the respondent corporation, is. right in his submission that in view of the presence of the arbitration clause in the agreement, the petitioner would be well advised to resort to the same. The relevant clause is setout hereinbelow for the facility of quick reference:

Clause 23--In case any dispute or difference shall arise between the parties or either of them upon any question relating to the meaning of the specifications, designs, drawings and instructions hereinbefore mentioned or as to the quality of workmanship or materials used on the work, or as to the construction of any of the conditions or any clause, or thing herein contained or as to any question, claim relating to liabilities of the parties or any matter, or thing whatsoever. In anyway arising out of, or relating to the contract, designs, drawings, specifications, estimates, instructions, orders or these conditions, or otherwise concerning the work, or the execution, or failure to execute the same, whether arising during the progress of the work, or alter the completion or abandonment thereof, or as to the breach of this contract, then either party shall forthwith give to the other notice of such dispute or difference and such dispute or difference shall be referred to the Chief Engineer of the Corporation and his decision shall be final, conclusive and binding on all the parties.

3. In that view of the matter, this writ petition is disposed of with the liberty to the petitioner to resort to the arbitration clause as setout herein-above.