2025:AHC:186447-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 15336 of 2018

Karmesh Kumar Srivastava Prop. Venus Trading Corpn.

.....Petitioner(s)

Versus

City Development Secretary And 5 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Sudhir Kumar Srivastava
Counsel for Respondent(s)	:	C.S.C., Pranjal Mehrotra

Court No. - 2

Judgement Reserved on 13.10.2025

Judgement delivered on 17.10.2025.

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HON'BLE PRAKASH PADIA, J.
HON'BLE VIVEK SARAN, J.

Per- Hon'ble Vivek Saran, J.

1. Heard Sri Sudhir Kumar Srivastava, learned counsel for the petitioner, Sri Pranjal Mehrotra, learned counsel appearing on behalf of respondent nos.2 to 5, learned Standing Counsel for respondent nos.1 and 6 and perused the records.

2. The aforesaid writ petition has been filed by the petitioner with the following relief:-

> "To issue a writ, order or direction in the nature of mandamus commanding the respondent no.4 to release the amount of the work carried out by the erstwhile firm of the petitioner in pursuance of the work order dated 23.12.2011 by the respondent no.4 with interest."

3. Learned counsel for the petitioner submits that the petitioner was allocated the work vide official letter no.22(A)/Kanp/UPRNN/Suda Unit-1/Kanpur dated 23.12.2011 to construct the overhead tank in the Malin Basti of Madarpur and Zanna according to terms and conditions of the respondent corporation. It is further submitted that apart from the said work, the petitioner also constructed C.C. Road 700X3 meters and spread sewer pipeline upto 1500 meters at Rooma, constructed 60 sewer chambers also at Rooma and also completed the top dome of 320 K.L. of overhead tank at

Madarpur and 250 K.L. of overhead at Zona and the respondent Nigam paid for the work of C.C. Road and sewer chambers. However, the balance amount as claimed by the petitioner was not paid.

4. Per contra Sri Pranjal Mehrotra, learned counsel appearing on behalf of respondent nos.2 to 5 submitted that there is no admitted amount to be paid by the respondent Nigam and in fact the petitioner has not produced any document in support his statement and no one from the Nigam had assured the petitioner that the claimed amount would be paid to him. He further submits that all the payments with regards to the work done by the petitioner has already been paid and and relies upon para no.15 of the counter affidavit which reads as under:-

> "That the allegations made in paragraph no.8 of the writ petition are distorted, misconceived, wrong and the same are vehemently denied. In reply, it is respectfully submitted that all the payments in regard to the work done by the petitioner is already paid vide Cash Voucher No.1412 dated 04.02.2012 and Cheque No. 754959 dated 04.02.2012 of Rs. 3,53,750. Copy of the Cash Voucher and Bill Form is being filed herewith and marked as Annexure No. C.A.-1 to this Affidavit."

5. After going through the writ petition, we find that there is no document on record to establish that any specific amount was admitted to be paid by the respondents to the petitioner. On the contrary in various communications annexed with the petition, the respondents have demanded copy of work orders etc. on which petitioner claims to have worked for the respondents. Evidently the claim of the petitioner is disputed by the respondents.

6. The Supreme Court in the case of **Kerala SEB v. Kurien E. Kalathil** reported in **(2000) 6 SCC 293** has held that writ court is not the proper forum for resolution of disputes in contractual matters. The relevant paragraph is delineated below:

> "10. We find that there is a merit in the first contention of Mr Raval. Learned counsel has rightly questioned the maintainability of the writ petition. The interpretation and implementation of a clause in a contract cannot be the subject-matter of a writ petition. Whether the contract envisages actual payment or not is a question of construction of contract. If a term of a contract is violated, ordinarily the remedy is not the writ petition under Article 226. We are also unable to agree with the observations of the High Court that the contractor was seeking enforcement of a statutory contract. A contract would not become statutory simply because it is for construction of a public utility and it has been awarded by a statutory body. We are also unable to agree with the observation of the High Court that since the obligations imposed

> by the contract on the contracting parties come within the purview of the Contract Act, that would not make the contract statutory. Clearly, the High Court fell into an error in coming to the conclusion that the contract in question was statutory in nature."

7. The Supreme Court in the case of **Orissa Agro Industries Corpn. Ltd. v. Bharati Industries reported in (2005) 12 SCC 725** dealt with the maintainabilty of a petition under Article 226 specifically on disputed questions of fact involved in contractual matters. The relevant paragraphs are delineated below:

> "7. A bare perusal of the High Court's judgment shows that there was clear non-application of mind. On one hand the High Court observed that the disputed questions cannot be gone into a writ petition. It was also noticed that the essence of the dispute was breach of contract. After coming to the above conclusions the High Court should have dismissed the writ petition. Surprisingly, the High Court proceeded to examine the case solely on the writ petitioner's assertion and on a very curious reasoning that though the appellant Corporation claimed that the value of articles lifted was nearly Rs 14.90 lakhs no details were specifically given. From the counter-affidavit filed before the High Court it is crystal-clear that relevant details disputing claim of the writ petitioner were given. Value of articles lifted by the writ petitioner is a disputed factual question. Where a complicated question of fact is involved and the matter requires thorough proof on factual aspects, the High Court should not entertain the writ petition. Whether or not the High Court should exercise jurisdiction under Article 226 of the Constitution would largely depend upon the nature of dispute and if the dispute cannot be resolved without going into the factual controversy, the High Court should not entertain the writ petition. As noted above, the writ petition was primarily founded on allegation of breach of contract. Question whether the action of the opposite party in the writ petition amounted to breach of contractual obligation ultimately depends on facts and would require material evidence to be scrutinised and in such a case writ jurisdiction should not be exercised.
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> 9. In the instant case the High Court has itself observed that disputed questions of fact were involved and yet went on to give directions as if it was adjudicating the money claim in a suit. The course is clearly impermissible.

8. The Supreme Court in a recent case of **Union of India v. Puna Hinda**

reported in (2021) 10 SCC 690 has further held that the jurisdiction of High Court under Article 226 of the Constitution of India is wide, but pure contractual matters in field of private law, having no statutory flavour, are better adjudicated upon by forum agreed to by parties. Dispute could not be raised by way of a writ petition on disputed question of facts. The relevant paragraphs are delineated below:

> "24. Therefore, the dispute could not be raised by way of a writ petition on the disputed questions of fact. Though, the jurisdiction of the High Court is wide but in respect of pure contractual matters in the field of private law, having no statutory flavour, are better adjudicated upon by the forum agreed to by the parties. The dispute as to whether the amount is payable or not and/or how much amount is payable are disputed questions of facts. There is no admission on the part of the appellants to infer that the amount stands crystallised. Therefore, in the absence of any acceptance of joint survey report by the competent authority, no right would accrue to the writ petitioner only because measurements cannot be undertaken after passage of time. Maybe, the resurvey cannot take place but the measurement books of the work executed from time to time would form a reasonable basis for assessing the amount due and payable to the writ petitioner, but such process could be undertaken only by the agreed forum i.e. arbitration and not by the writ court as it does not have the expertise in respect of measurements or construction of roads.
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> 25. A perusal of the matter shows that collusion of some of the officers of the appellants with the contractor cannot be ruled out. Such collusion seems to be the basis of the writ petition filed before the High Court."

9. The coordinate Bench of this Court in the case of **M/S Bio Tech System v. State Of U.P. and Others reported in (2020) 11 ADJ 488DB** has emphasised the limited power of the writ court exercising obligation in contractual matters . The relevant paragraphs are delineated below:

> "39. The general principles which may be culled out from the aforementioned judgments is that in a case where the contract entered into between the State and the person aggrieved is of a non-statutory character and the relationship is governed purely in terms of a contract between the parties, in such situations the contractual obligations are matters of private law and a writ would not lie to enforce a civil liability arising purely out of a contract. The proper remedy in such cases would be to file a civil suit for claiming damages, injunctions or specific performance or such appropriate reliefs in a civil court. Pure contractual obligation in the absence of any statutory complexion would not

be enforceable through a writ.

> 40. The remedy under Article 226 of the Constitution being an extraordinary remedy, it is not intended to be used for the purpose of declaring private rights of the parties. In the case of enforcement of contractual rights and liabilities the normal remedy of filing a civil suit being available to the aggrieved party, this Court may not exercise its prerogative writ jurisdiction to enforce such contractual obligations."

10. In the present factual matrix, the petitioner has not been able to bring on record any document wherein the respondent authorities have admitted that a particular sum is owed to them. On the contrary, the respondents have disputed the claim of the petitioner in their counter affidavit. It has to be kept in mind that when disputed questions of fact are present, the writ jurisdiction is not the viable forum, as such disputes cannot be decided upon bare exchange of affidavits. As clearly enunciated in the judgments cited above, in areas of contractual disputes, parties have to approach the civil courts or go for arbitration (if provided for). The writ court would only in exceptional circumstances, when the outstanding payments are admitted by the respondents, enter into the arena and pass a writ of mandamus and in no other case.

11. Accordingly, the writ petition is **dismissed**.

12. No order as to cost.

(Vivek Saran,J.) (Prakash Padia,J.)

October 17, 2025
Gaurav Kuls