

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07-07-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.19921 of 2015

Solar Designs Pvt. Ltd.
By its Managing Director
A.A.K. Apathsakaayem
No.1, A-Wing, Parsn Manor
602, Anna Salai, Chennai 2 .. Petitioner

vs

Tamilnadu Arasu Cable TV
Corporation Ltd.,
rep. By Managing Director
Dugar Towers, 6th Floor
34 (123) Marshalls Road
Egmore, Chennai 8 .. Respondent

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondent to consider the request of the petitioner made in it's letter dated 8.7.2014, and release the Security Deposit and Earnest Money Deposit made by the petitioner as per the condition of the Tender No.TACTV/Infrastructure Works/11/2012 as sought for by the petitioner.

For Petitioner : Mr.A.Parveen

For Respondent : Mr.Abdul Saleem

ORDER

By consent, the writ petition itself is taken up for final disposal.

2.The deponent of the affidavit filed in support of this writ petition, is the Managing Director of the petitioner-firm, and he claims that the petitioner-concern is a reputed interior designer with several contracts for Government institutions, multinational companies, Banks and corporate firms ever since the year 1997 and in response to the tender floated by the respondent, it submitted it's bid and it was accepted and the petitioner was also issued with a letter of acceptance dated 10.1.2013, entrusting the work of supply, installation, testing and commissioning of electrical equipments in Data Centre, at Tamil Nadu Arasu Cable TV Corporation Ltd., Chennai.

3. According to the petitioner, as per the conditions stipulated in the work order, it has remitted Rs.2,75,630/- towards Security Deposit, and a sum of Rs.1 lakh towards Earnest Money Deposit respectively and has completed the work on time and as per the conditions stipulated in the work order, and it was also paid with the amounts in respect of the works completed by it. It is stated that as per Clause 2.18.1 of the Contract Agreement, the defect liability period is 12 months from 27.4.2013 to 26.4.2014 and as per Clause 2.18.2, the Security Deposit should be returned to the petitioner on satisfaction of completion of works; but, however, the respondent did not do so and in this regard, the petitioner sent a lawyer's notice dated 13.5.2015, calling upon the respondent to refund the Security Deposit as well as the Earnest Money Deposit on time, failing which, the said amount shall carry interest at 24% per annum till it is finally settled and though it was received and acknowledged, the respondent did not care to pass any orders and hence, it came forward to file this writ petition.

4. The learned Counsel appearing for the petitioner, has drawn the attention of this Court to the relevant Clauses and would submit that in the light of the Clauses in the Contract/Agreement, which binds both the parties, the respondent is under obligation to return the Security Deposit as well as the Earnest Money Deposit and since it has not done so, the petitioner is constrained to approach this Court by filing this writ petition.

5. Per contra, Mr. Abdul Saleem, learned Standing Counsel, who accepted notice on behalf of the respondent, has drawn the attention of this Court to Clause No.2.22 of the Contract/Agreement and would submit that insofar as the Security Deposit is concerned, it will be retained as a performance guarantee, which will be held by the respondent for a period of three years, during the period of warranty and insofar as the Earnest Money Deposit is concerned, seeks time to get instructions.

6. This Court, in the light of the facts and circumstances and without going into the merits of the case projected by the petitioner as well as by the respondent, directs the respondent to consider and dispose of the petitioner's representation dated 8.7.2014, as well as the legal notice dated 13.5.2015, sent on its behalf, in accordance with law, after providing an opportunity of personal hearing to an authorised representative of the petitioner, within a period of four weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. The writ petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar (CS III)

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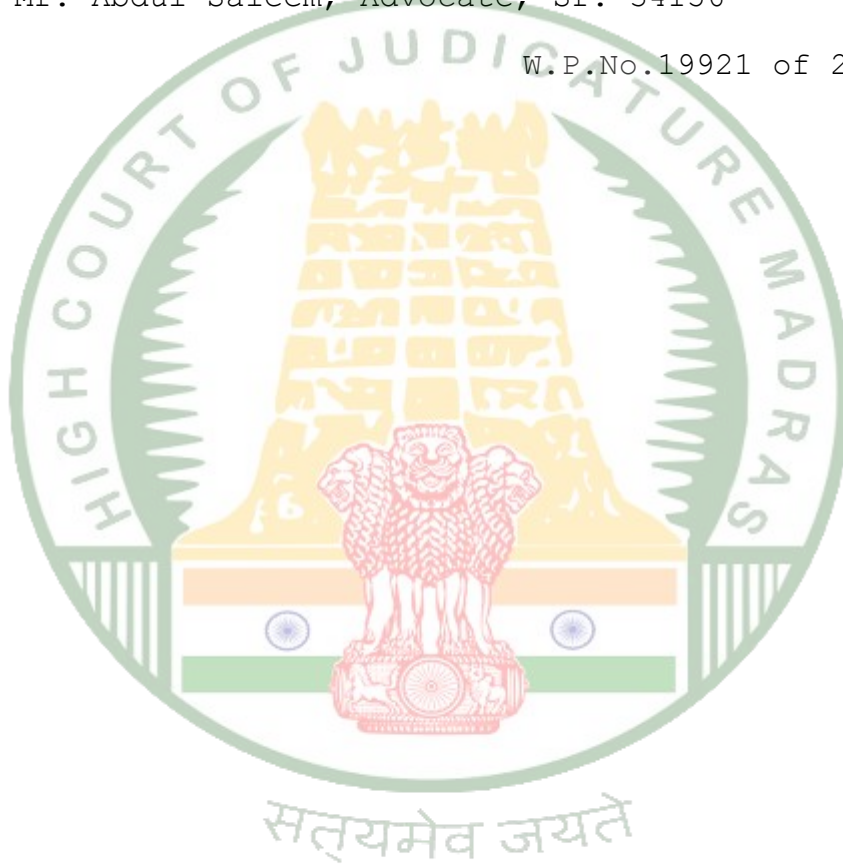
To:

The Managing Director
Tamilnadu Arasu Cable TV
Corporation Ltd.,
Dugar Towers, 6th Floor
34 (123) Marshalls Road
Egmore, Chennai 8

1 cc to Mr.P. Gunaraj, Advocate, Sr. 34137
1 cc to Mr.A. Parveen, Advocate, Sr. 33870
1 cc to Mr. Abdul Saleem, Advocate, Sr. 34156

W.P.No.19921 of 2015

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