

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.3.2015

CORAM

THE HONBLE MR.JUSTICE V.RAMASUBRAMANIAN
and
THE HON'BLE MR.JUSTICE P.R.SHIVAKUMAR

Writ Appeal Nos.945 & 946 of 2013

K.R.Veerappan

.. Appellant in
W.A.No.945/13

V.R.R. & Co.
rep. by Suba Velu
No.127, VSM Garden
Jafferkhanpet
Chennai 600 083.

Appellant in
.. W.A.No.946/13

Vs.

1. The Commissioner
Corporation of Chennai
Ripon Buildings
Park Town, Chennai 3.

2. The Superintendent Engineer
Bus Route Roads Department
Corporation of Chennai
Ripon Buildings
Park Town, Chennai 3.

.. Respondents in
both W.As.

Appeals under Clause 15 of the Letters Patent against the common
order dated 20.6.2012 made in W.P.Nos.26541 and 26542 of 2011

Writ petitions praying to issue a writ of mandamus directing the
first respondent to pass orders on the representation dt.05.03.2011
submitted by the petitioner for the refund of earnest money deposit
(EMD) security deposit (SD) and the retention amount in respect of
the several works executed under the control of the respondents as
well as the other Zonal officers of the Corporation of Chennai
forthwith.

For Appellants : Mr.L.Chandrakumar
For Mr.M.Suresh Kumar
For Respondents: Mr.R.Arunmozhi

C O M M O N J U D G M E N T

(Delivered by V.Ramasubramanian,J)

These appeals are by the Contractors, who had undertaken several works awarded by the respondent/Corporation of Chennai, against the orders passed by the learned Judge dismissing their writ petitions seeking a Mandamus.

2. Heard Mr.L.Chandrakumar, learned counsel for the appellants and Mr.R.Arunmozhi, learned Standing Counsel for the respondents.

3. The appellants filed W.P.Nos.26541 and 26542 of 2011 seeking the issue of the writs of Mandamus to direct the Commissioner of Corporation of Chennai to pass orders on their representation dated 05.3.2011 for the refund of the Earnest Money Deposit and Security Deposit as well as the retention amount in respect of several works executed by them for the benefit of the respondents. But, the writ petitions were dismissed by the learned Judge by an order dated 20.6.2012, on the short ground that the dispute between the parties arose out of contractual obligations and that therefore, the remedies lie only before the civil Court. Aggrieved by the said order, the contractors are before us.

3. It is no doubt true that the award of the contract by the respondents to the appellants may be in the realm of contract. But, it is not as if the jurisdiction of this Court under Article 226 is completely barred in respect of contracts. There are several types of contracts, such as statutory contracts as well as non statutory contracts. Even in respect of non-statutory contracts, the Supreme Court has taken a view that the respondents being instrumentality of the State, within the meaning of Article 12 of the Constitution, may have to act fairly. Therefore, we do not think that the writ petitions could have been dismissed, when the prayer of the appellants was only for a limited purpose. The appellants are not even seeking an adjudication of the dispute on facts. They were simply seeking a Mandamus to dispose of their representations. The representations were also not for payment of money upon the work executed, but only for refund of the Earnest Money Deposit, Security Deposit and the retention amount. Therefore, when the scope of the writ petitions was very limited, the appellants need not have been driven to the civil Court.

4. In view of the above, the writ appeals are allowed, the impugned orders are set aside and there will be a direction to the first respondent to consider the representations of the appellants dated 05.3.2011 and pass appropriate orders, taking into account all the certificates produced by the petitioners, in accordance with law, within a period of six weeks. The appellants shall send copies of the representation, along with the copies of the certificates as well as

a copy of this order, to the respondent. No costs. Consequently, M.P.Nos.1 of 2013 in both the appeals are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1. The Commissioner
Corporation of Chennai
Ripon Buildings
Park Town, Chennai 3.
2. The Superintendent Engineer
Bus Route Roads Department
Corporation of Chennai
Ripon Buildings
Park Town, Chennai 3.

+1 cc to M/s.R.Arunmozhi, Advocate, SR.14941.

+2 cc to Mr.L.Chandrakumar, Advocate, SR.15307.

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W.A.Nos.945 & 946 of 2013.

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