



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2015

CORAM:

THE HONOURABLE DR. JUSTICE S.TAMILVANAN

and

THE HONOURABLE MR. JUSTICE V.S.RAVI

W.A.(MD)No.78 of 2015

and

M.P.(MD)No.1 of 2015

K.P.Selvam

... Appellant

Vs.

1.The District Collector,
Sivagangai.

2.The Superintending Engineer,
Highways Circle Office,
Alagar Kovil Road, Madurai.

3.The Divisional Engineer,
Highways Department,
Sivagangai.

... Respondents

PRAYER: The Writ Appeal is filed under Clause 15 of Letters Patent Act, to set aside the order dated 01.09.2014 passed in W.P.(MD)No.11331 of 2012 by the Learned Single Judge.

Prayer in WP(MD). 11331/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARIFIED MANDAMUS, calling the impugned order issued by the 3rd respondent to the Petitioner on 09.02.2009 (se.mu.ka.No.200/2007-2008/A-1) dated 09.02.2009) and quash the same and direct the 3rd Respondent to do not cease the amount and repay within a stipulated period to the petitioner as calculated aforesaid amount Rs.7,83,747/- (Rupees Seven Lakhs Eighty three Thousand and seven hundred forty seven only).

For Appellant : Mr.V.Vinayagamoorthy

For Respondents : Mr.C.Selvaraj, Spl.G.P.

JUDGMENT

(Judgment of this Court was delivered by S.TAMILVANAN,J.)

The unsuccessful Writ petitioner is the appellant in the Writ Appeal. The relief sought for in the Writ petition is seeking an order in the nature of Writ of Certiorarified Mandamus, to call for the impugned order dated 09.02.2009 passed by the Divisional Engineer, Highways Department, Sivagangai, the third respondent in the Writ petition, in se.mu.ka.Nos.199 and 200/2007-2008/A1, quash the same and direct the third respondent to repay the seized amount of Rs.7,83,747/- within a stipulated period to the petitioner.

2.The averments of the appellant / petitioner shows that there was a tender to lay road between Ilayankudi - Sivagangai - Melur and for which, there was a contract between the appellant / petitioner and the respondents.

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3.Learned Special Government Pleader appearing for the respondents



submitted that the Writ petition is not at all maintainable, since there is arbitration clause available or even otherwise the petitioner has to approach only the Civil Court.

4.It is not in dispute that there is arbitration clause available to the petitioner and further, when the relief sought for is based on a civil contract. After the second tender is called for by the respondents, the petitioner cannot file a Writ petition, seeking extension of time.

5.On the aforesaid facts and circumstances and having gone through the common order passed by the Learned Single Judge, we could find no error or infirmity so as to interfere with the same.

6.In the result, the order passed by the Learned Single Judge is confirmed and the Writ Appeal is dismissed.

No costs. Consequently, connected M.P.is closed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub- Assistant Registrar

To

1.The District Collector,
Sivagangai.

2.The Superintending Engineer,
Highways Circle Office,
Alagar Kovil Road, Madurai.

3.The Divisional Engineer,
Highways Department,
Sivagangai.

+1cc to Mr.V.Vinayagamoorthy, Advocate in SR.No.8057/15

sm:30.03.2015:2P/5C

W.A. (MD) No.78 of 2015
23.02.2015