

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.19544 of 2012

Dated 30.07.2015

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Between:

M/s.Krishnaveni Constructions

rep. by its Managing Partner

... Petitioner

and

—

The Govt. of Andhra Pradesh,

rep. by its Prl.Secretary, I& CAD Department

Hyderabad and others.

...Respondents

Counsel for the petitioner: Mr.Polisetty Radhakrishna

Counsel for the respondents: AGP for Irrigation & CAD (AP)

The Court made the following:

Order:

This Writ Petition is filed for a Mandamus to declare the action of the respondents, in withholding the securities, bid security, performance security *etc.*, to a tune of Rs.9,07,501/- under agreement No.39 SE 1991-92 of Superintending Engineer, Irrigation Circle, Guntur, since 1992, as illegal and arbitrary. The petitioner sought for a consequential direction to the respondents to release the said amount.

In his counter-affidavit, respondent No.3 has *inter alia* stated that after completion of the works, certain defects were identified and communicated to the petitioner *vide* letter No.1290M, dated 08-11-1993, with a request to attend to the rectification works and that the petitioner has not rectified the defects till the year 1996. While admitting the withholding of the sum of Rs.9,07,501/- towards FSD under LS I to VII, Bid Security, EMD as BG and Deposits pertaining to Eerlakatta Tank, the respondents justified the same on account of the alleged failure of the petitioner to rectify the defects. It is further pleaded that as the petitioner has not approached the respondents by rectifying the defects, final bill has not been prepared.

After hearing Mr.Polisetti Radha Krishna, learned Counsel for the petitioner, and the learned Assistant Government Pleader for Irrigation (AP) representing the respondents, I am of the opinion that as the dispute raised by the petitioner arises under a concluded contract, it is neither possible nor appropriate for this Court to adjudicate the same in a Writ Petition. If the petitioner is willing to rectify the defects pointed out by the respondents, it can do so and seek refund of the withheld amount. In such an event, the respondents shall release the withheld amount on being satisfied with the rectification of the defects. Conversely, if the petitioner feels

aggrieved by the stand taken by the respondents and does not intend to rectify the alleged defects, it shall be free to avail the remedy such as arbitration, subject to its availability, and in its absence, the common law remedy of civil suit before the competent Court of law.

Subject to the above observations and directions, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition, WPMP.No.25049 of 2012, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 30th July, 2015

LUR