

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2016

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.Nos.28585 of 2014

and MP.No.1 of 2014

R.Ravi

.. petitioner

Vs.

The Managing Director
Tamil Nadu Water supply and Drainage Board
31, Kamarajar Road,
Chepauk, Chennai-5.

2.The Executive Engineer
Maintenance Division
Tamil Nadu Water supply and Drainage Board
Hanging Garden, Cherry Road,
Salem-636 007.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus to direct the respondents to pay the petitioner the sum of Rs.6,46,633/- including interest at the rate 20%p.a. towards final settlement of the bills for the works done by the petitioner under the works order of the 2nd respondent bearing No.Lr.16/F/REPCWSS/Kandarkulamanickam/O&M JDO/2010 dated 26.04.2010.

For Petitioner : Mr.S.Ayyathurai
For respondents : Mrs.S.Thamizharasi.

O R D E R

With the consent of both sides, the Writ Petition is taken up for final disposal.

2.The petitioner has come up with the present writ petition for issuance of writ of mandamus to direct the respondents to pay the petitioner the sum of Rs.6,46,633/- including interest at the rate 20%p.a. towards final settlement of the bills for the works done by the petitioner under the work order of the 2nd respondent bearing No.Lr.16/F/REPCWSS/Kandarkulamanickam/O&M JDO/2010 dated 26.04.2010.

3.The petitioner is one of the contractors for doing the maintenance works of water supply and drainage systems. The second respondent by order dated 26.04.2010 awarded maintenance contract for operation and maintenance of sumps, pumpsets and pumping mains in Kanderkula booster to Rasipuram Municipality for the period from 01.04.2010 to 31.03.2011, the petitioner has executed the said work.

4.The payment for the work done would be made to the contractor which is equal to 95% of the value of the finished work done by the contractor on each running bill and the balance of 5% will be withheld and retained as security for the due fulfillment of the contract. The contractor will receive the final payment of all the money payable under the contract or by virtue of contract except security deposit and the retention amount equal to 2% of the total value of work done provided there is no recovery from or forfeiture by the contractor. The amount withheld from the final bill will be retained and paid to the contractor together with security deposit after 15days from the date of passing final bill.

5.Having satisfied with the performance of the works, the work agreement was extended upto 30.11.2011. The petitioner was paid only for four bills and there remains to be paid final bill for the period from 01.04.2010 to 30.11.2011, which comes to Rs.3,87,605/-. The petitioner submits that the amount fell due on 01.12.2011. The petitioner borrowed the money and executed the works allotted to him and he is entitled for the interest at the rate of 20%p.a., the total amount due to be paid is Rs.6.46,633/-.

6.The petitioner made several representations to the second respondent for payment of the bills. The petitioner also approached the office of the second respondent for payment of bills, he was informed that the bill has been sent to the first respondent for payment. The last such representation to the respondents is dated 24.08.2014, the same was not considered till date, hence, the petitioner filed the present writ petition.

7.The Second respondent has filed his counter stating that Tamil Nadu Water Supply and Drainage Board undertakes to maintenance of sumps in the local body area. The petitioner is one of the contractor engaged by the Board as per letter 20.09.2011. The petitioner carried out the contract work in stages and presented four bills for the period from 27.04.2010 to 31.07.2011 for payment, the petitioner was paid a sum of Rs.3,70,818/- out of the contract amount of Rs.5,95,866/-. The petitioner presented the bill for the period between 10.08.2011 to 30.11.2011, the bills are sent to the Board for sanction as early as possible, the bill amount comes to Rs.1,47,172/-. It

is stated that the final bill will be paid to the petitioner after 15 days from the date of passing of the bill, if the bill amount is not paid after 15days from the date of sanction of the bill, then only the cause of action for this writ petition will arise, but the bill is not yet passed till date and hence, the writ petition is not maintainable at this stage.

8.Heard the submissions of the learned counsel appearing for the petitioner and the learned standing counsel who accepts notice on behalf of the respondents.

9.Considering the facts and circumstances, this Court is inclined to dispose of the writ petition by directing the respondents to pay the admitted amount of Rs.1,43,172/- along with interest at the rate of 6% from the date of filing the writ petition, payable within a period of six weeks from the date of receipt of a copy of this order. If the petitioner having any other claim over the amount claimed by him, the petitioner is at liberty to workout the same by initiating legal proceedings in accordance with law. No costs.

10.The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CSIV)

True Copy

Sub-Assistant Registrar

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To

1.The Managing Director
Tamil Nadu Water supply and Drainage Board
31, Kamarajar Road,
Chepauk, Chennai-5.

2.The Executive Engineer
Maintenance Division
Tamil Nadu Water supply and Drainage Board
Hanging Garden, Cherry Road,
Salem-636007.

+1 cc to Mr.S.Ayyathurai Advocate sr.11548

W.P.Nos.28585 of 2014

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aa08/03/2016