

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2016

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.21378 of 2016

M/s.Emjay Constructions
A registered firm
rep. by its Partner
K.Murugesan

... Petitioner

Vs.

- 1 The State of Tamil Nadu rep.by its
Secretary to Government,
Animal Husbandry, Dairying and
Fisheries Department,
Secretariat,
St.George Fort,
Chennai - 600 009.
- 2 The Chief Engineer,
Fisheries Department,
DMS Complex,
Teynampet,
Chennai - 600 006.
- 3 The Executive Engineer,
Fishing Harbour Project Division,
Near Vadasery Bus Stand,
Nagarcoil - 629 001.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to settle the balance outstanding due of Rs.19,51,98,161.00 payable under the Agreement No.CR 07/2013-14 dated 15.07.2013 for completion of the construction of Western Breakwater and its approaches for Fishing Harbour at Chinnamuttom in Kanniyakumari District by considering the representations dated 12.05.2015, 18.05.2016 and 02.06.2016.

For Petitioner : Mr.N.Manokaran
for M/s.D.Gopal

For Respondents: Mr.R.Govindasamy
Special Government Pleader

O R D E R

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

2.The petitioner would state that, it is a registered Government Civil Engineering Contractor carrying on the business of contract works and it also entered into an Articles of Agreement No.CR 07/2013-14, dated 15.07.2013, to carry on the construction of Western Breakwater and its approaches for Fishing Harbour at Chinnamuttom in Kanniyakumari District. According to the petitioner, it has done qualitative work and executed the contract work in accordance with the specifications/ norms.

3.The grievance expressed by the petitioner is that, though the value of the tender is Rs.33,91,71,850/- and they have executed the work to the value of Rs.33,33,56,465/-, they have been paid only Rs.15,10,78,088/- and the balance as on 12.05.2015 was Rs.18,22,78,377/- and in spite of repeated representations and reminders to the third respondent, no orders have been passed and hence, came forward to file this writ petition.

4.Mr.N.Manokaran, learned counsel appearing for the petitioner has drawn the attention of this Court to paragraph no.5 of the affidavit and would submit that as on today, a sum of Rs.19,51,98,161/- as detailed hereunder, is due and payable to the petitioner in respect of the contract work undertaken by them and prays for appropriate orders.

Sl. No.	Particulars	Pending Amount	Interest (Rs.)	Total (Rs.)
1	Bill pending	10,50,22,995.00	5,08,00,199.00	15,58,23,194.00
2	Price Escalation	1,86,12,309.00	55,07,204.00	2,41,19,513.00
3	Withheld amount - 2.5%	84,08,700.00	24,88,054.00	1,08,96,754.00
4	Bonus	33,63,480.00	9,95,221.00	43,58,701.00
Total				19,51,98,161.00

5.This Court also heard the submissions of Mr.R.Govindasamy, learned Special Government Pleader, who accepts notice on behalf of the respondents.

6.Though, the petitioner prayed for a larger relief, this Court in the light of the above facts and circumstances, directs the respondents 1 and 2 to consider the petitioner's

representations, dated 12.05.2015, 04.08.2015, 07.04.2016, 18.05.2016, 01.06.2016, 02.06.2016 and 12.06.2016, on merits and in accordance with law and pass appropriate orders, within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

7.The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

- 1 The State of Tamil Nadu rep.by its
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+1cc to M/s. D. Gopal, Advocate, S.R.No.34607
+1cc to the Government Pleader, S.R.No.34897

SSK(CO)
EU(30/06/2016)

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