

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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WRIT PETITION No.18086 OF 2016

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed seeking to declare the action of the respondents in deducting the alleged excess payment of Rs.3,93,866/- from the deposits of EMD & FSD of the petitioner, as arbitrary and illegal and contrary to the Rules and G.Os and consequently, direct the respondents to refund the deposited amount of Rs.7,67,114/- as EMD & FSD without deducting the alleged excess payment with interest @ 18% p.a. from the due date of refund along with damages.

2. The case of the petitioner is that he was awarded the works of levelling of site and construction of fruit shops in the market yard of Ananthapuram. The petitioner has completed the work as per the schedule and after expiry of observation period of two years, he has to receive an amount of Rs.7,67,114/- towards EMD, FST/ASD. Accordingly, the petitioner filed a representation for release of said amount. The Deputy Executive Engineer and the Executive Engineer, Agricultural Market Committee informed the same to the 1st respondent for payment of above said amount. On the basis of the same, the 1st respondent sent for audit. The audit authorities raised some objections and in turn the 1st respondent vide letter, dated 04.02.2014, sent the same to the Executive Engineer for reply. Thereafter, the Deputy Executive Engineer vide letter, dated 05.02.2014, replied to the audit objections and finally, stated that the audit party has made no objection during pre-audit. Thereafter, the 1st respondent issued a cheque for an amount of Rs.3,73,248/- in favour of the petitioner after deducting the amounts as directed by respondents 2 to 4. The petitioner has not accepted the said cheque

and got issued legal notice. In pursuance of the said legal notice, the petitioner received a letter, dated 19.09.2014, from the 1st respondent, wherein it is stated that the Committee has not violated any Rules relating to refund of deposits to the petitioner and also informed him that the Committee is ready to refund the deposits after consultation and taking permission with the Audit authorities after obtaining the relevant certificates from the Executive Engineer. The action of the respondents in deducting the amounts is highly arbitrary and illegal.

3. Learned Government Pleader for Agricultural Market Committee, on instructions, submits that the Agricultural Market Committee came to the conclusion to pay the undisputed amount to the petitioner and also drawn a cheque in favour of the petitioner to that effect. But, the petitioner refused to receive the same.

4. In those circumstances, there is no fault on the part of the respondent authorities and even today the respondents are ready to pay the undisputed amount to the petitioner. So far as the other amounts, which are required to be deducted in terms of the audit objections on account of recoveries, are concerned, the Writ Petition would not lie. However, in the present facts and circumstances of the case, the respondents admitted the undisputed amount of Rs.3,73,248/- to be paid to the petitioner which, in fact, has been crystalized in the reply notice, dated 19.09.2014, given by the respondents.

5. Accordingly, the Writ Petition is disposed of with a direction to the respondents to pay the undisputed amount of Rs.3,73,248/- to the petitioner within a period of two (2) weeks from the date of receipt of a copy of this order. The receipt of said amount by the petitioner would be without prejudice to his claim with reference to the other amounts which were deducted from the refundable amount of Rs.7,67,114/- as

mentioned in the reply letter, dated 19.09.2014. The petitioner is also at liberty to take appropriate steps as advised with respect to other amounts by initiating civil proceedings. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

CHALLA KODANDA RAM, J

JUNE 09, 2016

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Date: 09.06.2016

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