

**THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY**

**WRIT PETITION No.13618 OF 2011**

**ORDER:**

This Writ Petition is filed challenging the letter, dated 21.04.2011, addressed by respondent No.1 to the petitioner stating that mobilization advance amount given to the petitioner in pursuance of the agreement should be completely repaid prior to the expiry of original time of completion under Clause 51 of ITB and non-completion of work as per schedule shall be considered as "breach of contract" under Clause 27 of General Condition of Contract and action shall be taken to collect the balance mobilization advance amount from the bankers.

This Court, while admitting the Writ Petition on 30.04.2011, granted interim suspension as prayed for.

Now, counter and vacate petition are filed by respondent No.1 stating that the agreement between the petitioner and respondent No.1 – Corporation was entered on 20.02.2009 and the petitioner was entrusted the work of providing sewage collection system to uncovered areas and renovation of existing sewage collection system in Madurai Corporation, which shall be executed within a period of 24 months. As disputes arose between the petitioner and respondent

No.1 – Corporation, the Corporation was constrained to invoke the bank guarantees and as such, issued another letter, dated 21.04.2011, to respondent Nos.2 and 3 for invoking the bank guarantees. At this stage, petitioner filed the present Writ Petition on 30.04.2011. It is also stated that the dispute was ultimately referred to Arbitral Tribunal and the Tribunal passed an Award on 16.12.2012. Thereafter, though the petitioner resumed works, as the progress of work was slow, the Corporation has issued a show-cause notice and ultimately, terminated the contract on 11.07.2014, but respondent Nos.2 and 3 declined to honour invocation of bank guarantees in view of the pendency of Writ Petition. It is also stated that aggrieved by the Award, dated 16.12.2012, petitioner has filed Arbitration O.P.No.1813 of 2014 before the City Civil Court, Hyderabad, and obtained interim injunction on 06.08.2014, and in view of the same, the cause in the Writ Petition has become infructuous.

No reply affidavit is filed to the counter filed by respondent No.1 – Corporation.

Since the Tribunal has already passed an Award on 16.12.2012 in respect of the subject matter of the Writ Petition and aggrieved by the same, the petitioner has also filed Arbitration O.P.No.1813 of 2014 before the City Civil Court, Hyderabad, and obtained interim order on

06.08.2014, the cause in the Writ Petition no longer survives for adjudication.

In view of the same, the Writ Petition is dismissed as infructuous. However, petitioner is at liberty to pursue his remedies in pending O.P.No.1813 of 2014.

Miscellaneous Petitions, if any, pending in this Writ Petition, shall stand closed. No costs.

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**REDDY, J**  
April 11, 2016  
MD

**A. RAJASHEKER**