

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Friday, the Third day of March Two Thousand Seventeen

PRESENT

THE HON`BLE MR JUSTICE T. S. SIVAGNANAM

WMP No.3239 of 2017

IN WP.4738/2016

M/S.ADAM ASSOCIATES UTILITY [PETITIONER]
ENGINEERS PVT. LTD.,
CIN.NO.U52599TN1995PTC030108
REP. BY ITS MANAGING
DIRECTOR G.MOHAN, 21/B-3,
RAJA ANNAMALAI ROAD, PURASAWAKKAM,
CHENNAI-600 084.

Vs

1 THE CHAIRMAN AND MANAGING [RESPONDENTS]
DIRECTOR, CHENNAI METRO RAIL LTD., CMRL
DEPOT, ADMIN BUILDING, POONAMALLEE HIGH ROAD,
KOYAMBEDU, CHENNAI-600 107.

2 M/S.MOSMETRO INDIA PVT. LTD.
HAVING ITS REGISTERED OFFICE AT ASV, ADARSH
BUILDING, 3RD FLOOR, BLOCK-C, NO.719,
PATHARI ROAD, CHENNAI-600 002.

3 M/S.GAMMON-OJSC
MOSMETROSTROY (JV), ASV, ADARSH BUILDING,
3RD FLOOR, BLOCK-C, NO.719, PATHARI ROAD,
CHENNAI-600 002.

4 M/S.OJSC MOSMETROSTROY
Q-1-06-55/C, P.O.BOX 122730, SHARJAH, UNITED
ARAB EMIRATES.

5 THE ASSISTANT COMMISSIONER,
HR & CE DEPARTMENT, KANCHEEPURAM,
KANCHEEPURAM DIST.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to Implead the Assistant Commissioner of HR & CE Department, Kancheepuram as the 5th Respondent in WP No.4738 of 2016.(IN WMP No.3239 of 2017 IN WP.4738/2016)

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.S.MANIVELU, Advocate for the petitioner and of MR.M.MAHARAJAN Special Government Pleader, on behalf of the 5TH Respondent the court made the following order:-

The petitioner is M/s.Adam Associates Utility Engineers Private Limited, who is one of the contractors who were appointed by the Chennai Metro Rail Limited (CMRL). It appears that due to disputes and differences which had arisen between the contractors and the persons who were entrusted with the development of the CMRL, several issues arose between the parties and ultimately, the matter was referred for mediation before the Mediation and Conciliation Centre attached to this Court. Pursuant to which, an agreement was arrived on 15.04.2016.

2.The petitioner herein had filed a miscellaneous petition in W.M.P.No.19209 of 2016 in W.P.No.4738 of 2016. The said writ petition was filed for a direction to CMRL to settle their dues and by way of interim relief, the petitioner sought for a direction upon the HR&CE Department to grant further time for handing over the vacant land at Manapakkam Camp. Since a settlement had been arrived at, the Court vide common order dated 29.04.2016 granted 20 days time for the successful bidder to remove the scrap. Now the petitioner is before this Court seeking for direction to extend the time since it appears that the Assistant Commissioner, HR & CE Department, Kancheepuram has locked and sealed the premises after the expiry of 20 days period. Therefore they seek for impleading the Assistant Commissioner, hR&CE Department, Kancheepuram as 5th respondent in W.P.No.4738 of 2016 and to direct the 5th respondent to remove the lock and seal affixed so as to enable the petitioner to remove the remaining 19 containers from the Manapakkam Camp.

3.In the affidavit filed in support of the miscellaneous petition, the petitioner has stated that certain *force majeure* condition which prevented them from removing 19 containers as a bridge had collapsed due to the recent rain in December 2016.

4.The Court heard the learned Special Government Pleader (HR&CE) on the above submissions.

5.Considering the fact that the containers could not be removed for the reasons beyond the control of the petitioner , this Court deems it appropriate to pass the following order:

1. W.M.P.No.3239 of 2016 is allowed and the Assistant Commissioner, HR&CE Department, Kancheepuram is impleaded as 5th respondent in the writ petition.
2. The 5th respondent is directed to remove the lock and seal at the Manapakkam Camp and Yard to facilitate the petitioner to remove the remaining containers from the said Yard.
3. The petitioner is granted four weeks time from the date of receipt of a copy of this order to remove the 19 containers

and hand over vacant possession to the HR&CE Department.
The petitioner shall pay the charges towards the use and occupation of the vacant yard as demanded by the 5th respondent, which shall be at reasonable rates.

-sd/-
03/03/2017

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE CHAIRMAN AND MANAGING
DIRECTOR, CHENNAI METRO RAIL LTD., CMRL
DEPOT, ADMIN BUILDING, POONAMALLEE HIGH ROAD,
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5 THE ASSISTANT COMMISSIONER,
HR & CE DEPARTMENT, KANCHEEPURAM,
KANCHEEPURAM DIST.

C.C. to M/S.S.MANIVELU Advocate on payment of necessary charges

The Government Advocate, High Court, Madras - 104.

Order

in
WMP.3239/2017

in
WP.4738/2016

Date :03/03/2017

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