

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-02-2017

CORAM:

THE HONOURABLE MR. JUSTICE T. RAJA

W.P.No.21549 of 2016

A. Dhanasekaran
Contractor
No.67/22, Kumaran Street
Thiruvaththipuram
Cheyyar
Tiruvannamalai District ... Petitioner

Vs.

1. Commissioner of Municipal Administration
Government of Tamil Nadu
Chepauk
Chennai - 600 005
2. Thiruvaththipuram Municipality
Rep. by its Commissioner
Thiruvaththipuram
Tiruvannamalai District. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a writ of mandamus to direct the second respondent to release the outstanding amount of Rs.22,00,000/- payable to the petitioner in respect of the execution of work pertaining to laying of Metal (Tar) Road from Vaithyar Street at East Mada Street on Vazhurpet Main Road along with Drainage, as communicated in the second respondent's letter in N.K.No.5867/2014/E7 dated 02-05-2016 by getting the relevant files from the office of the first respondent within a reasonable time as fixed by this Court.

For petitioner :: Mr. C.P. Sivamohan for
M/s. K.Karthik Jagannath

For respondents :: Mr. R. Govindasamy, Spl.G.P. for R1
Mr. R. Ravichandran for R2

O R D E R

This writ petition has been filed by Mr. A. Dhanasekaran, Contractor seeking for an issuance of a writ of mandamus directing the second respondent to release the outstanding amount of Rs.22,00,000/- (Rupees Twenty Two lakhs only) payable to the petitioner in respect of the execution of work pertaining to laying of Metal (Tar) Road from Vaithyar Street at East Mada Street on Vazhurpet Main Road along with Drainage, as communicated in the second respondent's letter in N.K.No.5867/2014/E7 dated 02-05-2016 by getting the relevant files from the office of the first respondent within a reasonable time.

2. It has been submitted before this Court that the petitioner being the registered Contractor has involved in construction work by getting works under tender system from the Government and local bodies like Municipalities and Town Panchayats. Whiles, the petitioner was awarded two contracts by the second respondent for laying Metal (Tar) road from Vaithyar Street at East Mada Street on Vazhurpet Main Road along with Drainage with an estimate of Rs.30,00,000/- (Rupees Thirty lakhs only) and for laying of road in Ward No.3, New Street, 9th Cross Street and 10th Cross Street along with drainage with an estimate of Rs.20,00,000/- (Rupees Twenty lakhs only) with certain conditions mentioned in the said orders.

3. After completing the said work, as per the condition, the petitioner reported the completion of work to the second respondent and upon satisfying with the work executed by the petitioner, the second respondent also has made a part payment through part-bills amounting to Rs.8,00,000/- (Rupees Eight Lakhs Only). The remaining amount of Rs.22,00,000/- (Rupees Twenty Two Lakhs Only) is pending to be paid. Therefore, the petitioner has made a representation requesting the second respondent to clear the balance amount. But, till date no response is shown and hence the petitioner is before this Court.

4. The second respondent has filed a counter affidavit clearly admitting that a sum of Rs.8,00,000/- (Rupees Eight Lakhs Only) has been paid and the balance amount of Rs.22,00,000/- (Rupees Twenty two Lakhs Only) is due.

5. Firstly, after admitting the amount payable to the petitioner, the second respondent for the reasons best known to him in my considered view ought not to have driven the petitioner to this Court.

5.1 Secondly, when the second respondent also has taken a candid stand in Paragraph No.5 of the counter, no where they have justified the reason for non-payment of the amount nor any reason for considering the pending representation. However, the learned Additional Government Pleader appearing for the respondent would submit that his representation was already considered and the same was also rejected. This Court cannot find any justification, whatsoever for the rejection of the representation of the petitioner for the reason that when the second respondent has admitted the case of the petitioner that the balance of Rs.22,00,000/- (Rupees Twenty Two Lakhs Only) is payable to the petitioner after making initial payment of Rs.8,00,000/- (Rupees Eight Lakhs Only).

5.3 It is further stated in the counter affidavit that one Senthil has filed a writ petition before this Court in W.P.No.32818 of 2015 on the reason that the work done by the petitioner is defective and this Court has directed the first respondent to conduct an enquiry in this regard and hence the matter is pending consideration before the first respondent. Even the reason given namely, that one person has filed a writ petition and the nature of work completed by the petitioner in May 2015 itself, has been pending for enquiry before the first respondent, cannot be accepted by this Court.

6. In the above circumstances, this Court directs the first respondent to consider and dispose of the matter pending before it for enquiry, if any, within a period of one week and on completion of the enquiry, the second respondent shall pay the balance amount within a period of two weeks, from today.

7. The writ petition is disposed of, on the above terms. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. Commissioner of Municipal Administration
Government of Tamil Nadu
Chepauk
Chennai - 600 005

2. The Commissioner
Thiruvaththipuram Municipality
Rep. by its Commissioner
Thiruvaththipuram
Tiruvannamalai District.

+1 cc to M/s.K.Karthik Jaganath Advocate sr 10662

+1 cc to Mr.R.Ravichandran Advocate sr 10794

W.P.No.21549 of 2016

rj(co)
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