

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2017

CORAM

THE HON'BLE MR.JUSTICE B.RAJENDRAN

W.P.No.23599 of 2016

and

WMP. No.20212 of 2016

Normet India Pvt. Ltd.

No.21, Daya Nand Road, Daryakanj,
New Delhi- 110 002.

Rep. by its Authorised Signatory

Mr.Sunkaraman Sriram Sainadh ... Petitioner

Versus

1. The Chairman and Managing Director

Chennai Metro Rail Ltd.,

CMRL Depot, Admin Building

Poonamallee High Road

Koyembedu, Chennai-600 107

2. Mosmetro India Pvt. Ltd.

Having its Registered office at ASV Adarsh

Building, 3rd Floor, Block C No.719

Pathari Road, Chennai-600 002.

3. Gammon-OJSC Mosmetrostroy (JV)

ASV Adarsh Building 3rd Floor

Block C No.719 Pathari Road

Chennai-2.

4. OJSC Mosmetrostroy

Tzvetnoy 17 Moscow

Moscow Russian Federation

... Respondents

Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the first respondent to settle the dues of the petitioner amounting to Rs.64,43,968/- (Rupees Sixty Four Lakhs Forty Three Thousand Nine Hundred and Sixty Eight Only) from and out of the dues payable to the 2nd and 3rd respondents including by sale of Assets of the 2nd respondent as available with the 1st respondent towards the supplies made for the on going Metro rail Project.

For Petitioner : Ms. Shubharanjani Ananth

For Respondents : Mr.Jayesh D.Dolia for R1

O R D E R

The petitioner seeks for issuing a Writ of Mandamus directing the first respondent to settle the dues payable to the petitioner amounting to Rs.64,43,968/- (Rupees Sixty Four Lakhs Forty Three Thousand Nine Hundred and Sixty Eight Only) from and out of the dues payable to the 2nd and 3rd respondents including by sale of Assets of the 2nd respondent as available with the 1st respondent towards the supplies made for the on going Metro rail Project.

2. The petitioner is a company engaged in manufacturing and supplying of equipments and vehicles for mining and underground construction. During the course of their business, in December 2007, the Government of Tamil Nadu has appointed the first respondent as a Special Purpose Vehicle for implementing Chennai Metro Rail Project. During the course of implementation of such project, the first respondent entrusted certain contractual works to the second and third respondent herein which are joint venture companies. In the course of the Metro Rail project work, as requested by the second respondent, the petitioner supplied a product called Tam Soil from February 2015 to April 2015 and raised purchase orders on the second respondent company. However, the second respondent company failed and neglected to honour the payment payable to the petitioner.

3. The learned counsel for the petitioner brought to the notice of this Court that the first respondent has withheld and/or retained a sum of Rs.112 crores payable to the second respondent for the work already executed by the second respondent. On 26.05.2015, in a meeting held between various vendors/suppliers, including the petitioner, the first respondent and the third respondent assured and undertook to certify all outstanding bills of the petitioner company and to make the payment due and payable to them from and out of the amount payable to the second and third respondents. The learned counsel for the petitioner also brought out that in identical circumstances, WP Nos. 16062 to 16066 of 2015 were filed before this Court by the suppliers like the petitioner. The said WP Nos. 16062 to 16066 of 2015 were referred to Tamil Nadu Mediation and Conciliation Centre attached to this Court for exploring the possibility of settlement. After mediation, it was reported that the first respondent herein has settled the creditors/petitioners therein from and out of the amount payable to the second and third respondents herein and it was also recorded by this Court in the order dated 29.04.2016. Similarly, WP No. 16063 of 2015 was filed before this Court and by order dated 13.07.2016, this Court disposed of the writ petition by recording the compromise entered into before the Tamil Nadu Mediation and Conciliation Centre attached to this Court. The learned counsel for the petitioner therefore would contend that if a direction is given to the first respondent to disburse the amount payable to the petitioner from and out of the dues payable to the 2nd and 3rd respondents including by sale of Assets of the 2nd respondent as available with the 1st respondent towards the supplies made for the on going Metro

rail Project as has been done in the case of the other petitioners mentioned above.

4. On the above contention, this Court heard the learned Counsel for the first respondent, who did not dispute the settlement effected between the first respondent and other petitioners similarly placed like the petitioner before the Tamil Nadu Mediation and Conciliation Centre attached with this Court. The learned counsel therefore would only contend that the first respondent may be directed to settle the amount payable to the petitioner with whatever remaining assets of the respondents 2 and 3 in their hands by giving priority to the claim of the petitioner.

5. I heard the learned counsel for both sides and perused records, including the earlier orders passed by this Court recording the settlement effected between various claimants and the first respondent herein before the Tamil Nadu Mediation and Conciliation Centre attached to this Court. In the light of the settlement effected by the first respondent earlier in favour of other claimants, this Court is of the view that the first respondent shall explore the possibility of settling the amount payable to the petitioner from and out of the dues payable to the 2nd and 3rd respondents including by sale of Assets of the 2nd respondent as available with the 1st respondent towards the supplies made for the on going Metro rail Project and to pass orders thereof on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order.

6. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

smi/rsh

To

1. The Chairman and Managing Director
Chennai Metro Rail Ltd.,
CMRL Depot, Admin Building,
Poonamallee High Road,
Koyembedu, Chennai-600 107.

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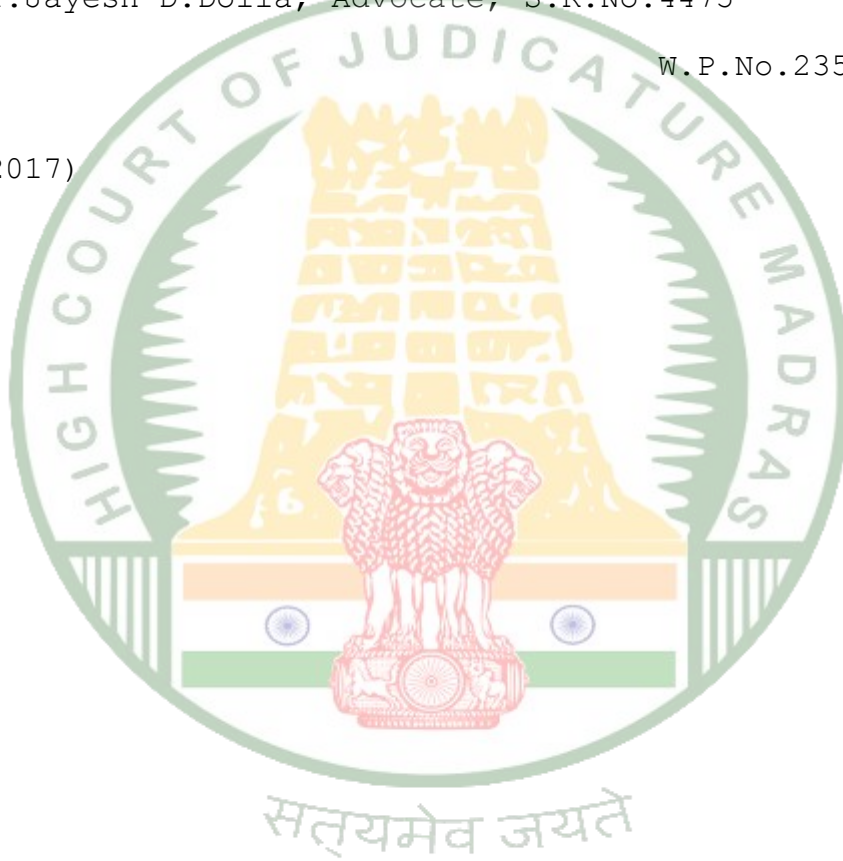
4. OJSC Mosmetrostroy
Tzvetnoy 17 Moscow
Moscow Russian Federation.

+1cc to Ms.Shubharanjani Ananth, Advocate, S.R.No.3833

+1cc to Mr.Jayesh D.Dolia, Advocate, S.R.No.4475

W.P.No.23599 of 2016

LRS (CO)
CA(05/04/2017)



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