



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
ORDER RESERVED ON :22.06.2017
ORDER PRONOUNCED ON:01.08.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.2661 of 2017

and

W.M.P.(MD).No.2201 of 2017

C.Balakrishnan

.. Petitioner

Vs.

1.The District Forest Officer,
Tirunelveli division,
N.G.O. 'A' Colony,
Tirunelveli.

2.Forest Officer,
Sivagiri Division,
Tirunelveli District.

3.The Conservator of Forest,
Tirunelveli Circle,
Tirunelveli-7.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a a Writ of Certiorarified Mandamus to call for the records relating to the impugned order made in Na.Ka.No.1104/16/Val dated 29.07.2016 passed by the first respondent and quash the same, consequently, direct the first and second respondents to pay Rs.12,15,000/- to the petitioner instead of directing the second respondent to deposit Rs.12,15,000/- in government account.

For Petitioner : Mr.T.Selvakumaran

For Respondents : Mr.TR.Janardhanam

Additional Government Pleader

ORDER

This writ petition has been filed by the petitioner praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order made in Na.Ka.No.1104/16/Val dated 29.07.2016 passed by the first respondent and quash the same, consequently, direct the first and second respondents to pay a sum of Rs.12,15,000/- to the petitioner instead of directing the second respondent to deposit Rs.12,15,000/- in the government account.



areas in Tirunelveli District for the past 27 years. While so, the second respondent approached the petitioner to do certain contractual works during the period 2014-2015. On that basis, the petitioner has also finished the works entrusted to him within the prescribed time fixed by the respondents and it is stated by the petitioner that he received a part of the contract amount from the second respondent. However, it is alleged that the respondents have not paid the balance amount due to him. In this connection, the petitioner has sent a representation on 18.01.2017 to the first and the second respondents. The first respondent received the said representation and visited the spot and after verifying the work done by him, on 29.07.2016, he directed the second respondent to deposit a sum of Rs.12,15,000/- in the name of the government account. The petitioner filed W.P.(MD).No.1930 of 2017 praying for a Writ of Mandamus directing the first respondent therein to disburse the amount of Rs.12,15,000/- for the work done by him.

2.1. Under the said circumstances, when the writ petition came up for admission on 06.02.2017, it was dismissed by this Court with liberty to the petitioner to file a fresh writ petition challenging the impugned order dated 29.07.2016. Hence, the present writ petition has been instituted by the petitioner challenging the action of the first respondent.

3. Learned counsel for the petitioner would submit that the work was entrusted to him through department, namely, by the respondents and therefore, they ought to have settled the balance amount, but, the respondents driven the petitioner from pillar to post. Further, the impugned order was not served upon the petitioner and only on direction given by this Court, a copy of the impugned order was served upon him, that too, on the date of admission of the earlier writ petition and therefore, the impugned order of the respondents is liable to be set aside.

4. *Per contra*, learned Additional Government Pleader through his counter affidavit would submit that the amount due to him has already been paid and in fact, on complaint by the petitioner that the amount has not been settled was duly enquired by the District Forest Officer on 29.03.2016 and during the course of the enquiry, the petitioner himself admitted that he received the entire balance payment of the work done by him. To sum up, he submitted that there is no due on the part of the respondents to be settled to the petitioner. Hence, he prayed for the dismissal of the writ petition.

5. Heard the learned counsel for the petitioner as well as the learned Government Advocate for the respondents.

6. On perusal of the impugned order, it is seen that the petitioner has given a letter to the respondents stating that there is no due from them for the work done by the petitioner and even



thereafter, a sum of Rs.1,00,000/- (Rupees One lakh) has been paid to the petitioner. Furthermore, when the enquiry was conducted by the District Forest officer, the petitioner himself admitted that the amount due to him has already been settled. Therefore, the petitioner cannot go back and say that there is due from the respondents. Further, as per the averments made in the writ petition and it is seen from the records that there is no written contract work between the petitioner and the respondents. When there is no agreement in black and white between the petitioner and the respondents, this Court cannot issue any direction to the respondents.

6.1. Above all, in the matter of contractual matters, the scope of interference is remote. To sum up, the issue involved in the writ petition is purely a disputed question of fact and this Court, exercising its jurisdiction, under Article 226 of Constitution of India cannot venture into the same. It is apt to mention that in the case of **State of Kerala and others Vs. M.K. Jose, dated 14.08.2015**, the Supreme Court has held that a Writ Court should ordinarily not entertain writ petition, if there is a breach of contract involving disputed questions of fact. No doubt, the present case clearly indicates that the factual disputes are involved between the petitioner and the respondents. Hence, the petitioner has to work out his remedy before the appropriate forum in the manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To,

1.The District Forest Officer,
Tirunelveli division,
N.G.O. 'A' Colony,
Tirunelveli.

2.Forest Officer,
Sivagiri Division,
Tirunelveli District.

3.The Conservator of Forest,
Tirunelveli Circle,
Tirunelveli-7.

+1cc to Mr.T.SELVAKUMARAN Advocate in SR. No.69960

SSM

JS/KK/SAR.1/9.8.2017/3P-5C

Pre-delivery order made in
W.P (MD) No.2661 of 2017
01.08.2017