



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.04.2017

CORAM:

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THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.(MD) .No.2343 of 2011

and

M.P(MD)No.1 of 2011

S.Sreedhran

.. Petitioner

Vs.

1.The Managing Director,
Tamil Nadu Water and Drainage Board,
Chennai-5.

2.The Chief Engineer,
Tamil Nadu Water Board, (W.R.),
Madurai.

3.The Executive Engineer,
Urban Division,
Tamil Nadu Water and Drainage Board,
Tirunelveli.

4.The Executive Engineer,
Project Division,
Tamil Nadu Water and Drainage Board,
Nagercoil.

5.RWS Division,
Tamil Nadu Water and Drainage Board,
Nagercoil.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the first respondent, dated 21.05.2009 Lr.No.34787/Do/com/2009 and quash the same and consequently to direct the first respondent to pay Rs.73,98,440/-.

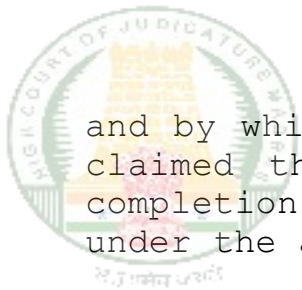
For Petitioner

:Mr.Veera.Kathiravan
Senior Counsel
for Mr.T.Selvakumaran

For Respondents

:Ms.Porkodi Karnan

The petitioner, who is a contractor, challenges the proceedings of the first respondent Board, dated 21.05.2009, in



and by which, the Tamil Nadu Water Supply and Drainage Board, has claimed that the loss caused to the Board because of the non completion of work by the petitioner within the time stipulated under the agreement comes to Rs.29,98,355/-.

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2.Heard Mr.Veera.Kathiravan, learned Senior Counsel appearing for the petitioner and Ms.Porkodikarnan, learned counsel appearing for the respondents.

3.It is stated that the petitioner has not completed the work within the time stipulated under the contract and even after, the reminder was issued on 30.07.2004 directing him to complete the work, he did not complete the same. Since there was no improvement, the respondent Board was forced to cancel the contract on 20.09.2004 and complete the work by engaging another contractor.

4.It is the claim of the petitioner that the One Man Committee which assessed the value of the completed work by the petitioner at Rs.75,77,967/-. However, the said amount has not been paid so far. Therefore, the petitioner made several requests for the above said payment. Since it was not paid, the petitioner had approached this Court by filing W.P(MD)No.2183 of 2009 seeking for a mandamus, to direct the respondent Board to dispose of his representation.

5.This Court, by an order dated 25.03.2009 issued a writ of mandamus directing the respondent therein to consider the claim of the petitioner for payment of Rs.75,77,967/-. Pursuant to the said order, the impugned order came to be passed by the respondent Board rejecting the claim of the petitioner to the sum of Rs.75,77,967/- .

6.The first respondent had filed a counter affidavit stating that the claim of the petitioner has been rejected directing him to pay sum of Rs.29,98,355/- to the respondent Board towards the extra cost involved in completing work. It was further stated that the action is being taken to recover the said amount under the provisions of Revenue Recovery Act.

7.Mr.Veera.Kathiravan, learned Senior Counsel for the petitioner would contend that the said demand made by the first respondent is behind his back and therefore, the same is liable to be set aside.

8.Ms.Porkodi Karnan, learned counsel for the respondent Board would submit that the order impugned in this writ petition is only an intimation order which was given to the petitioner and



9.A reading of the proceeding dated 21.05.2009 discloses that there is no final decision arrived at. The relevant portion of the proceedings reads as follows:

"....In this regard, I am to inform you that as stated earlier a net sum of Rs.29,98,355/- is due to be recovered from you and necessary action is being taken to recover the said amount from you as per law."

10.The above said intimation cannot be treated as a demand. It is made clear that this proceeding dated 21.05.2009 will not form the basis for any recovery against the petitioner. If the board had suffered any loss due to non completion of the work by the petitioner, it is open for them to initiate appropriate proceedings, conduct proper enquiry, after giving opportunity to the petitioner and pass orders on the liability of the petitioner.

11.With the above observation, the writ petition stands disposed of. No costs. Consequently, M.P(MD)No.1 of 2011 is closed.

Sd/-

Assistant Registrar(C)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Managing Director,
Tamil Nadu Water and Drainage Board, Chennai-5.
- 2.The Chief Engineer,
Tamil Nadu Water Board, (W.R.), Madurai.
- 3.The Executive Engineer,
Urban Division, Tamil Nadu Water and Drainage Board,
Tirunelveli.
- 4.The Executive Engineer,
Project Division, Tamil Nadu Water and Drainage Board,
Nagercoil.
- 5.RWS Division,
Tamil Nadu Water and Drainage Board,
Nagercoil.

+One cc to Mr.T.Selvakumaran, Advocate, SR.No.52911

vsg/mrn

RL/7C/3P/SV/SAR4/8.5.2017

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