

**THE HONOURABLE SRI JUSTICE RAJA ELANGO**

**WRIT PETITION No.33670 of 2013**

**ORDER:**

This writ petition is filed by the petitioner, under Article 226 of the Constitution of India, seeking to declare the action of the respondents in withholding an amount of Rs.41,11,000/- as illegal and arbitrary and violative of Articles 14 and 19 of the Constitution of India as well as G.O.Ms.No.94, I & CAD (PW) Department, dated 01.07.2003 read with the provisions of contract agreement and catena of precedents of the Hon'ble Supreme Court and this Court and consequently direct the respondent Nos.5 & 6 to release an amount of Rs.41,11,000/- in the interest of justice.

2. Heard and perused the material available on record.
3. The brief facts, that are necessary for disposal of the present writ petition, are as follows:

The petitioner is a registered Special Class Contractor and has executed several works. The 2<sup>nd</sup> respondent invited bids for the works "Construction and Commissioning of the Scheme including maintenance for one year on turn-key basis for Devarapalli Lift Irrigation Scheme in Parchuru Mandal, Prakasam District", in the year 2004 and that the petitioner participated in the bidding process and the 2<sup>nd</sup> respondent accepted the bid of the petitioner and issued work order vide letter, dated 13/15.05.2004 and that the 5<sup>th</sup> respondent entered into an agreement with the petitioner on 15.09.2004 relating to the above work. It is further submitted that though the 4<sup>th</sup> respondent recorded symbolic

possession of the lands to the petitioner on 27.12.2004, on the ground no such possession has taken place as there was standing crops in the subject lands by the said date, the ryots objected to enter into their lands and that the respondents failed to hand over the site to the petitioner all through the years 2004, 2005 & 2006. It is further submitted that as per the stipulations of the agreement, the one year period would expire by 26.12.2005 and that the period of contract was extended several times and the last extension of time was upto 30.06.2010 and that the petitioner completed most of the work in the extended period and the work could not be finished in full, due to the non-availability of the site and hence, the work was determined by the 2<sup>nd</sup> respondent *vide* memo, dated 29.09.2010 and that by the date of determination of contract, the petitioner has executed the work worth of Rs.3,59,82,587/- and against the said execution of work done by the petitioner, he has received an amount of Rs.3,51,35,481/- and apart from that, the petitioner is entitled to recover an amount of Rs.14,11,000/-, which was recovered from the petitioner by way of EMDs as well as encashment of bank guarantees. The total amount the petitioner is entitled to recover from the respondents including 7 ½% Fixed Security Deposit is Rs.41,11,000/-. It is further submitted that the petitioner made several representations to the respondents to release the amount of Rs.41,11,000/- forthwith as the said amount was withheld without any reason and contrary to the rules and regulations.

4. The main grievance of the petitioner is that the petitioner has also submitted representation on 22.09.2013, but

till date, the respondents did not initiate any steps to refund the amount withheld by them without any reasons.

5. It is the case of the petitioner that there is no dispute regarding the payment, but the respondents failed to pay the amount and also they have not given any reply to the representation, dated 22.09.2013, submitted by the petitioner.

6. Having regard to the facts and circumstances of the case, this Court is of the view that when a representation is made by the petitioner claiming his amounts, it is the duty of the respondents to give a reply to the representation submitted by the petitioner on 22.09.2013.

7. Accordingly, the Writ Petition is disposed of directing the respondents herein to give a reply to the representation, dated 22.09.2013, said to have been submitted by the petitioner, on or before 15.06.2017. On such reply, if the petitioner is aggrieved over the said reply, he is at liberty to approach the appropriate forum for appropriate relief. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

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**RAJA ELANGO,J**

Date: 20<sup>th</sup> April, 2017

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