

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2018

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.17307 of 2016

M/s.C.T.Ramanathan Infrastructure Pvt. Ltd.,  
Rep. By its Director Mr.Adaikkalvan,  
Flat No.413, S.K.Enclave, 2<sup>nd</sup> floor,  
No.4, Nowraji Road, Chetpet,  
Chennai. .. Petitioner

Vs

1.The General Manager,  
Southern Railway,  
Chennai.  
2.Chief Engineer,  
Construction S & RB,  
Southern Railway,  
Chennai. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus to direct the respondents to release the projects bills amount, arbitration award's amount, Price variation amounts, Security Deposits, EMD etc. for the projects which were not assigned to the Bank of Baroda, Mount Road Branch, Chennai, to the petitioner company within stipulated period.

For petitioner : Mr.M.Sathish Kumar

For Respondents : Mr.P.T.Ramkumar, standing counsel

ORDER

This writ petition has been filed by M/s.C.T.Ramanathan Infrastructure Private Limited, represented by its Director Mr.Adaikkalvan, seeking for issuance of a writ of mandamus directing the respondents to release the projects' bill amount, arbitration award's amount, Price variation amount, Security Deposits, EMD etc. for the projects, which were not assigned to

the Bank of Baroda, Mount Road Branch, Chennai, to the petitioner company, within a time frame.

2. It is submitted by the learned counsel for the petitioner that the petitioner company is engaged in the business of civil contract works for the State Government, Central Government, Railways, Highway Contracts and Joint Ventures. The petitioner Company registered under the provisions of the Company's Act, 1956, was incorporated during the year 2009. Whiles, the petitioner Company had approached the Bank of Baroda for the financial assistance and the said Bank had also consented for the same and thereafter, the petitioner Company had assigned 9 projects to the Bank. Although the petitioner Company has been paying their dues regularly, in view of financial crunch due to market fluctuations, they have committed default in repaying their dues to the Bank, for which, the Bank had preferred the Original application in O.A.No.131 of 2013 before the before the Debt Recovery Tribunal-I, Chennai, for recovery of Rs.14,48,66,920/-, which was later on transferred to the file of the Debt Recovery Tribunal-II, Chennai, and renumbered as O.A.No.426 of 2014, whereby, the Bank had obtained a garnishee order to the respondent/Southern Railway to deposit the said sum, that too, without arraying the Southern Railway as a party in the Original Application.

3. Aggrieved by the said order, the petitioner Company had filed a Writ Petition No.29206 of 2013, whereby, this Court, vide its order dated 28/11/2013, directed the Southern Railway to deposit a sum of Rs.7.50 crores, out of the funds that will be released by them after completion of measurement and other formalities to the credit of the O.A.No.426 of 2016. Pursuant to the order passed by this Court, the Southern Railway have deposited only Rs.4 crores to the credit Original Application pending before the DRT-II, Chennai. Since the remaining amount has not been released, the petitioner Company has filed the present writ petition with a prayer cited supra.

4. Learned standing counsel appearing for the respondents submitted that, in the present writ petition, the petitioner has neither impleaded the Bank of Baroda as party to the writ petition nor approached the DRT-II, Chennai, for such relief, where O.A.No.426 of 2014 filed by the Bank is pending. Therefore, a liberty may be given to the petitioner to approach the DRT-II, Chennai, to move an application in the pending Original Application for appropriate relief.

5. In view of the above, this Court, without going into the merits of the matter, taking note of the fact that the O.A.No.426 of 2014 filed by the Bank of Baroda is pending for consideration for recovery of a sum of Rs.14,48,66,920/-, gives liberty to the petitioner Company to move an application before the DRT-II, Chennai, for appropriate relief, within a period of one week from the date of receipt of a copy of this order. With this direction, the writ petition is dismissed. No Costs. WMP.No.14784 of 2016 is closed.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The General Manager,  
Southern Railway, Chennai.

2.Chief Engineer,  
Construction S & RB,  
Southern Railway, Chennai.

+1 cc to Mr.M.Sathish Kumar, Advocate SR.No.83469

+1 cc to Mr.P.T.Ram Kumar, Advocate SR.No.82804

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CSL/21.12.2018

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