

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2018

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No.4399 of 2013

and

MP.No.1 of 2013

M/s.Sree Jayasakthi Colour Works,
Rep.by its Partner Mr.A.Kalyanasundaram,
having office at No.4/86,
Kulathupalayam (PO),
Veerapandy, Tiruppur - 641 605. ... Petitioner

Vs

New Tiruppur Area Development
Corporation Ltd.,
37, Rassi Towers, Ground Floor,
JG Nagar, Kumaranandapuram,
60 Feet Road, Tirupur - 641 602. ... Respondent

Prayer: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the respondent herein dated 28.12.2012 and quash the same and consequently direct the respondent to repay the sum of Rs.2,03,000/- which was recovered from the petitioner herein by encashing the bank guarantee.

For Petitioner : Mr.G.Karthikeyan
For Respondent : Mr.P.Giridharan
Standing Counsel

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O R D E R

This writ petition has been filed challenging invocation of bank guarantee, dated 03.06.2005 and demand of Rs.28,614/- under Class 3.4 of the Service Agreements No.240368.

2. Heard the learned counsel for the petitioner and the learned Standing counsel for the respondent and perused the materials available on record.

3. The learned Standing counsel for the respondent submitted that while considering the similar issue, this Court dismissed a batch of writ petitions in W.P.Nos.754 to 758 of 2014 and the judgement would apply to this case also.

4. In W.P.Nos.754 to 758 of 2014, this Court held as follows :

"As rightly pointed out by the learned Additional Government Pleader appearing for the respondents, it is well settled proposition of law that the respondents cannot be injuncted from invoking the bank guarantee especially when the petitioners have not even pleaded or alleged that the respondents have resorted to fraud. In the absence of any pleading to that effect, the relief as claimed by the petitioners cannot be granted."

5. In the light of the above facts, I am of the considered opinion that the judgement referred supra would squarely apply to the case on hand. Accordingly, this writ petition is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

ms

To

New Tirupupr Area Development
Corporation Ltd.,
37, Rassi Towers, Ground Floor,
JG Nagar, Kumaranandapuram,
60 Feet Road, Tirupur - 641 602.

+1cc to Mr.P.Gridharan, Advocate SR.No.45194

W.P.No.4399 of 2013
and
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GN(23/07/2018)