



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Thursday, the Fifteenth day of March Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice M.SATHYANARAYANAN
and
The Hon`ble Mrs.Justice R.HEMALATHA

CMP(MD) No.7727 of 2017
IN
AS(MD) No.3 of 2015

M/S.URC CONSTRUCTIONS (PRIVATE)LIMITED,
REP. BY ITS PRESIDENT, MR.D.ELANGOVAN
HAVING ITS REGISTERED,
OFFICE AT 119 POWER HOUSE ROAD,
ERODE-01

... PETITIONER/RESPONDENT

Vs

1 THE GOVT. OF TAMIL NADU
REP. BY THE SECRETARY TO GOVERNMENT,
PUBLIC WORKS DEPARTMENT GOVERNMENT OF TAMILNADU,
FORT ST. GEORGE, CHENNAI-09

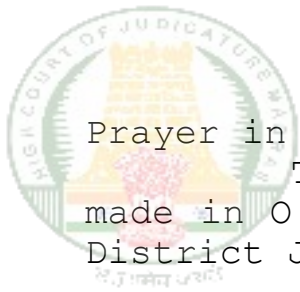
2 THE CHIEF ENGINEER,
PUBLIC WORKS DEPARTMENT,
WATER RESOURCES ORGANISATION,
PWD CAMPUS, THALLAKULAM,
MADURAI 625 002.

3 THE SUPERINTENDING
PUBLIC WORKS DEPARTMENT,
WATER RESOURCES ORGANISATION,
PROJECT CIRCLE, PALAYAMKOTTAI,
TIRUNELVELI.

4 THE EXECUTIVE ENGINEER
PUBLIC WORKS DEPARTMENT,
WATER RESOURCES ORGANISATION,
ADAVINAINARKOIL RESERVOIR
PROJECT DIVISION, KUDIYIRUPPU,
KUTRALAM.

... RESPONDENTS/RESPONDENTS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to permit to withdraw the amount together interest deposited by the respondents in the Indian Bank, High Court Branch, Madurai.



Prayer in AS(MD). 3/ 2015 :

To set aside the Decree and Judgment dated 07.07.2011 made in O.S.No.32 of 2008 on the file of the Learned Principal District Judge, Tirunelveli and thus render justice.

ORDER: This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.A.SIVAJI, Advocate for the petitioner and of MR.THIAAGARAJAN, Government Advocate for the Respondents the court made the following order:-

[Order of the Court was made by **M. SATHYANARAYANAN, J.**]

The learned Government Advocate appearing for the appellants / defendants in A.S.(MD)No.3 of 2015, prays for short accommodation as he is being lead by the learned Additional Advocate General.

2.Mr.A.Shivaji, learned counsel appearing for the respondent/appellant in A.S.(MD)No.201 of 2015 would submit that they have filed an appeal for enhancement of interest.

3.It is also brought to the knowledge of this Court that this Court vide interim order dated 20.10.2016, in M.P.(MD)No.1 of 2015 has permitted them to withdraw a sum of Rs.50,000/- and also granted interim order subject to the condition that the petitioners / appellants in A.S.(MD)No.3 of 2015, shall deposit 50% of Rs.1,60,02,645/- to the credit of the said appeal on the file of this Court, before the Indian Bank, High Court Branch, Madurai, within a period of ten weeks, with default clause and the said order has been complied with belatedly and prays for permission to withdraw the entire deposited amount.

4.However, the said submission is strongly opposed by the learned Government Advocate appearing for the appellants in A.S.(MD)No.3 of 2015 and would further add that the appellants are having a bright chance of success.

5.This Court has considered the rival submissions and also perused the materials placed on record.

6.Since it is a money decree, Order 41 Rule 5 of C.P.C. would come into operation. Though the suit came to be decreed as early as on 07.07.2011, the respondents are unable to realise the fruits of the decree and therefore, the respondent / decree holder in A.S.(MD)No.3 of 2015, is permitted to withdraw a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs only), lying to the credit of A.S.(MD)No.3 of 2015,



in Indian Bank, High Court Branch, Madurai, and the said withdrawal is subject to the result of the appeal.

sd/-
15/03/2018

/ TRUE COPY /

WEB COPY

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

To

THE PRINCIPAL DISTRICT JUDGE, TIRUNELVELI.

COPY TO : THE BRANCH MANAGER,
INDIAN BANK, HIGH COURT BRANCH,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

GJM/CM/VR/SAR-2-21.3.18-2P-3C

ORDER
IN
CMP (MD) No.7727 of 2017
IN AS (MD) No.3 of 2015
Date :02/03/2018