

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.19427 of 2007

ORDER:

This writ petition is filed seeking to issue a writ of mandamus, declaring the proceedings bearing Ref.No.KGM/GKOC/PO/KOC-62/435, dated 27.08.2007, issued by respondent No.2, as illegal, arbitrary and ultra vires to the provisions of Article 14 and 19(1)(g) of the Constitution of India, besides being violative of the principles of natural justice, besides declaring the order No.KOC.50, dated 04.07.2007, issued by respondent No.3, as illegal and arbitrary.

Heard Sri B.Vijayasen Reddy, learned counsel for the petitioner and Sri Nandigam Krishnarao, learned standing counsel for the respondents.

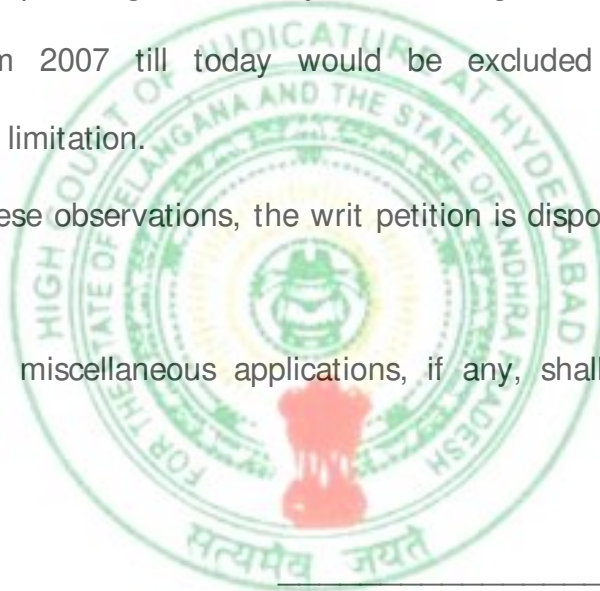
It has been contended by the petitioner that the petitioner was given excavation work order by the respondents, vide work order dated 15.10.2004. As per the said work order, the petitioner has to complete the excavation work within 36 months, but the petitioner has submitted an application in the month of June, 2007 even before expiry of 36 months seeking extension of time, citing various reasons. The respondents without considering any of the contentions raised by the petitioner have passed the impugned order on 27.08.2007, wherein the contract was dissolved on the ground of poor performance of the petitioner. Clause-14 of the original agreement entered into between the petitioner and the respondents deals with settlement of disputes. If there is any dispute between the parties, the parties must approach the competent civil court having jurisdiction, and arbitration was not prescribed and it was specifically barred as per the agreement.

Learned standing counsel for the respondents has contended that in view of Clause-14 of the agreement entered into between the petitioner and the respondents, if the petitioner has any grievance or dispute, it has to approach the competent civil court and the present writ petition is not maintainable.

This court, having considered the rival submissions made by both the parties, is of the view that it is appropriate to direct the petitioner to approach the competent civil court for redressal, as per Clause-14 of the agreement entered into between the parties. However, since the petitioner was pursuing its remedy in a wrong Forum, the period of limitation from 2007 till today would be excluded for purpose of calculating the limitation.

With these observations, the writ petition is disposed of. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.



ABHINAND KUMAR SHAVILI,J

Date: 23.04.2018
Dsr