

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

I.A.No.3 of 2018
IN/AND
WRIT PETITION No.9372 of 2018

COMMON ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking verbatim the following relief:

“For the reasons mentioned in the accompanying affidavit and those reasons which may be adduced at the time of hearing, it is prayed that this Honourable Court may be pleased to issue a Writ or Order or Orders more particularly one in the nature of Writ of Mandamus, declaring the action of the Respondents in demanding Additional Performance Security of Rs.1,24,70,802/- for the first time in the Letter of Assurance dated 06.03.2018 and letter dated 14.03.2018 without any basis and squarely in contravention to Clause 33 in Section II of the NIT No. NHAI/RO-HYD/11018/5/NS-23/12/Const of VUPs, dated 14.11.2017 as amended vide NIT No. NHAI/RO-HYD/11018/5/NS-23/12/Const. of VUPs/1794, dated 20.12.2017, as being arbitrary, illegal and being violative of Article 14 and 19(1)(g) of the Constitution of India and violative of principles of natural justice and pass such other order or orders in the interest of justice as this Hon'ble Court deems fit and proper.”

2. I.A.No.3 of 2018, under Section 151 of the Code of Civil Procedure, 1908, is filed by the petitioner requesting to permit the writ petitioner to withdraw the writ petition with a liberty to approach this Court in case the revised letter of assurance is not issued by the respondents.

3. I have heard the submissions of Sri *D.Narendar Naik*, learned counsel appearing for the petitioner, and of Sri *S.S.Varma*, learned Standing Counsel appearing for the respondents 1 & 2. I have perused the material record.

4. The averments in the affidavit filed in support of the I.A.No.3 of 2018, in brief, are as follows:- 'The above writ petition was filed challenging the action of the respondents in demanding Additional Performance Security of Rs.1,24,70,802/- for the first time in the Letter of Acceptance, dated 06.03.2018, and letter, dated 14.03.2018, without any basis and squarely in contravention to Clause 33 in Section II of the NIT No.NHAI/RO-HYD/11018/5/NS-23/12/Const. of VUPs, dated 14.11.2017 as amended *vide* NIT No.NHAI/RO-HYD/11018/5/NS-23/12/Const. of VUPs/1794, dated 20.12.2017, as being arbitrary, illegal and being violative of Article 14 and 19(1)(g) of the Constitution of India and violative of principles of natural justice. An interim order was passed by this Court on 21.03.2018 staying the said demand for Additional Performance Security in the Letter of Assurance, dated 06.03.2018. In view of the said interim order, the respondents have agreed to issue a fresh Letter of Assurance. Hence, the petitioner seeks permission of this Court to withdraw the writ petition with liberty to approach this Court in case the revised Letter of Assurance is not issued by the respondents.'

5. Permission is accorded to withdraw the writ petition.

6. Accordingly, I.A.No.3 of 2018 is allowed and the Writ Petition is dismissed as withdrawn reserving liberty as afore-stated.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

M.SEETHARAMA MURTI, J

Date: 23rd March, 2018
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