

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2019

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 3401 of 2018

M/s. Senthil & Co. Railway Contractor,
A Registered Partnership firm
Rep by its partner Mr. P.Senthilvelavan
S/o. C. Ponnumalai
No.1/124, Periyerpatti Post,
Omalar Taluk,
Salem District.

... Petitioner

-vs-

1. The General Manager,
Southern Railway,
Head Quarters,
Chennai - 600 003.
2. The Senior Divisional Finance Manager
Southern Railway
Madurai Division, Madurai.
3. The Senior Divisional Engineer/Co-ordination
Southern Railway,
Madurai Division, Madurai.
4. The Senior Divisional Engineer (North)
Southern Railway,
Madurai Division, Madurai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the Respondents to pay the Petitioner an amount of Rs. 2,28,529/- towards the final bill amount plus Rs.1,89,126/- towards security deposit amount and Rs.36,000/- towards the EMD and thus totally Rs.4,53,655/- along with to refund the deducted amount and bill for extra/new item of work for 3925 tie bars from the date of the completion of the work on 16.10.2006 till

the date of disbursement with interest at the prevailing bank rate in respect of agreement No.MDU.73/2003.

For Petitioner : Mr. G. Rajan

For Respondents: Mr. P.T. Ramkumar

O R D E R

Heard Mr. G. Rajan, Learned Counsel for the Petitioner and Mr. P.T. Ramkumar, Learned Standing Counsel appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition has been filed a direction to the Respondents to pay the Petitioner a sum of Rs. 2,28,529/- towards the final bill amount and a sum of Rs.1,89,126/- towards security deposit amount and a sum of Rs.36,000/- towards the earnest money deposit aggregating to a sum of Rs.4,53,655/- and to refund the deducted amount and bill for extra/new item of work for 3925 tie bars from the date of the completion of the work on 16.10.2006 till the date of disbursement with interest at the prevailing bank rate in respect of agreement No. MDU. 73/2003.

3. Learned Stating Counsel appearing for the Respondents has produced a copy of the letter dated 30.09.2019 received by him from the Fourth Respondent, in which it has been stated as follows:-

"1. The above work for the value of Rs. 43,52,513/- was awarded to the contractor M/s. Senthil & Co. vide letter of acceptance No.U/W.496/Tender/15/02 dated 21.10.2002. The Contractor has paid EMD for the value of Rs.36,000/- in the form of FDR No. 54429 date 16.09.2002 issued by Canara Bank of India, Papampatti Branch, Omalur Taluk. The contractor has executed the agreement pertaining to the above work vide agreement No.MDU/73/2003 dated 27.02.2003. The work to be completed within the currency period of 20 months upto 20.06.2004. The above work was commenced on 28.01.2003 and completed 16.10.2006 by the contractor duly extending the currency period.

2. The security deposit for the value of Rs.1,89,126/- to above agreement value have been recovered from the CC part bills. The contractor has been paid cumulative bill amount for

Rs.39,02364/- upto XI the & part bill No. 36 dated 07.10.2006.

3. During the execution of work, the additional locations were executed with the approval of competent authority. Due to variation in the quantity of work and non operation of the items in the schedule 'B', the agreement value was decreased (-5.09%) from Rs.43,52,513/- to Rs.41,30,893/-.

4. Due to which, the XII & final bill for the value of Rs.2,28,529/- is kept pending to be paid to the contractor, for which the file sent to Associate Finance and returned with observation. The same will be attended shortly and all the dues pending will be cleared".

The aforesaid submissions made on behalf of the Respondents is placed on record.

4. It shall be ensured by the Respondents that the payments due by them to the Petitioner is expeditiously made under written acknowledgment and a report of the compliance in this regard shall be filed before the Registrar (Judicial) of this Court by 31.01.2020.

5. The Writ Petition is disposed on the aforesaid terms. No costs.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

To

1. The General Manager,
Southern Railway,
Head Quarters,
Chennai - 600 003.
2. The Senior Divisional Finance Manager
Southern Railway
Madurai Division, Madurai.
3. The Senior Divisional Engineer/Co-ordination
Southern Railway,
Madurai Division, Madurai.

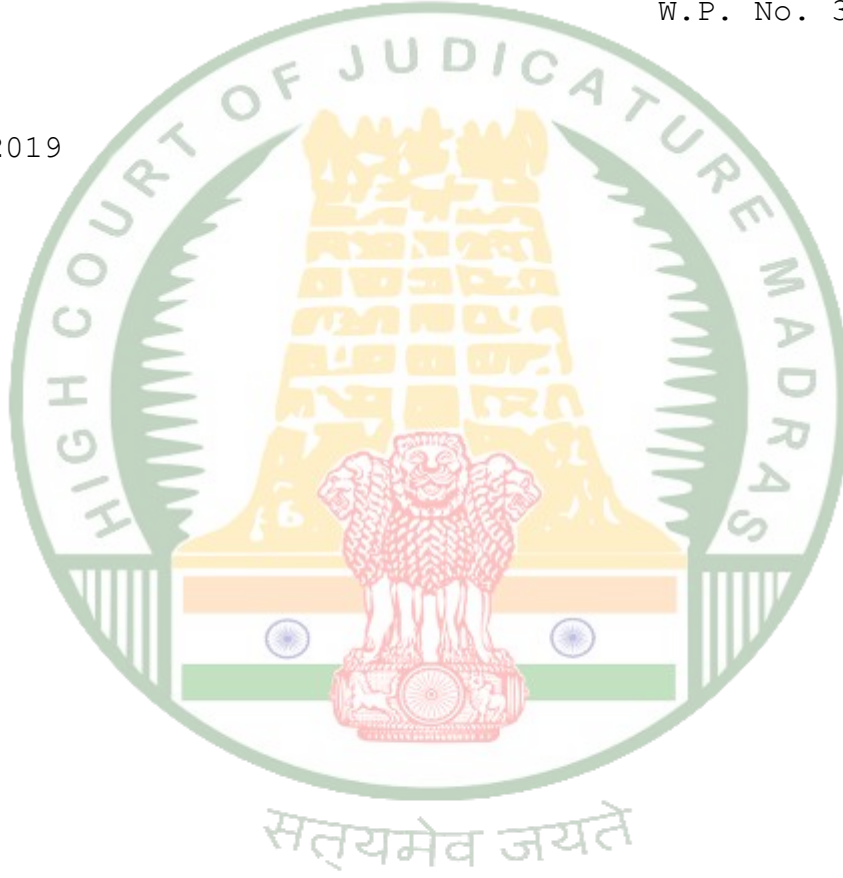
4. The Senior Divisional Engineer (North)
Southern Railway,
Madurai Division, Madurai.

5. The Registrar (Judicial),
Madras High Court,
Chennai - 600 104.

+lcc to Mr. P.T. Ramkumar, Advocate sr.92347

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rv(co)
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