

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.01.2019

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THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Rev.Application No.223 of 2018

in

W.A.No.1497 of 2018

M/s.Premier Garments Processing
rep.by its Proprietor,
Ibrahim Sha,
No.29, Govindan Street,
T.Nagar, Chennai-600 017.

...Petitioner

Vs

1.The Divisional Railway Manager,
Southern Railway,
Salem Division,
Salem 636 005.

2.The Senior Divisional Mechanical Engineer,
Southern Railway, Salem Division,
Salem 636 005.

...Respondents

PRAYER:-Review Petition filed under Order XXXVII Rule 1 read with Section 114 of C.P.C to review the order dated 11.07.2018 passed in W.A.No.1497 of 2018 of this Court.

For Appellant : Mr.S.Elambharathi

For Respondent : Mr.P.T.Ram Kumar

ORDER

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

The petitioner challenged the order of termination on the ground that the notice of termination was not issued. The petitioner has not submitted the performance guarantee though the performance guarantee has to be submitted within 30 days from the date of issuance of the letter of acceptance i.e., 15.03.2018 and after expiry of 30 days and up to 60 days with penal interest of 15 % per annum as per GCC 2014. Even when the termination notice was issued on 27.06.2018, the petitioner was not ready to submit the performance guarantee and thereby, the respondent Railway authority issued many notices. The very same issue was discussed by the learned Single Judge and thereafter, the Division Bench of this Court had dismissed the writ appeal and no further plea is permissible and re-appreciation of materials is not permissible.

2. The learned counsel appearing for the petitioner under the guise of arguing this review petition wants to re-adjudicate the writ appeal on merits, which have already been considered and rejected by the Division Bench of this Court.

3. It is a settled position of law that review petitioner, under the guise of the review petition, cannot reagitate the matter afresh on merits and under the guise of review, the evidence/material cannot be re-adjudicated and altogether a different conclusion cannot be reached.

4. A perusal of the order passed in the writ petition by the learned Single Judge as well as the judgment passed in the writ appeal, which is the subject matter of review, would disclose that all the points urged by the learned counsel for the petitioner have been considered and the Division Bench has rightly reached the conclusion to dismiss the writ appeal. It is also pertinent to point out at this juncture that challenging the judgment dated 11.07.2018 made in W.A.No.1497 of 2018, the very same petitioner has filed SLP.(C) No.20082 of 2018 and when it is moved for admission, on instructions, the Special Leave Petition has been dismissed as withdrawn and opportunity was granted to the petitioner to file review petition before this Court with a further direction that it will be decided on merits.

5. It is also brought to the knowledge of this Court that after the termination notice, contract was terminated on 27.06.2018 and the third party right also came into being and subsequent tender was re-notified on 03.07.2018 and tender was also awarded on 29.10.2018 in favour of

M.SATHYANARAYANAN.,J.
and
M.DHANDAPANI.,J.

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M/s.Kings Security God Services Private Ltd., at Lucknow and the said entity has been awarded tender for a value of Rs.84,10,459/- and nearly Rs.1 Crore have been saved and the said entity commenced the work on 19.11.2018.

6. There is no mistake or error apparent on the face of the record of the impugned judgment and this Court finds no merit in the review petition and therefore, the review petition is dismissed. No costs.

[M.S.N.,J] [M.D.I., J]
23.01.2019

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Index : No
Internet :Yes

To

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