

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU
W.P.No.14380 of 2018

M/s. Dodla Engineering, a Partnership Firm,
Represented by its Authorized Signatory,
No.3-1-578, Lakshimipuram,
Nellore - 524002. ...Petitioner

Vs.

The Project Director,
Tamil Nadu Road Sector Project II,
First Floor, TNMB Building,
No.171, South Kesava Perumalpuram,
Opp to Greeways Road,
R.A.Puram,
Chennai -600028. ...Respondent

Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of
Mandamus, to direct the respondent to repay the sum of
Rs.70,00,000/- (Rupees Seventy Lakhs) received by the
respondent by invoking the Banking Guarantee
No.021GT02142050011 on 05.02.2018.

For Petitioner : Mr.Vijay Meganathan
for M/s.AAV Partners

For Respondent : Mr.S.R Rajagopal
Additional Advocate General
assisted by
Mr.V.Shanmugasundar
Special Government Pleader

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O R D E R

The petitioner seeks for a mandamus directing the
respondent to repay the sum of Rs.70,00,000/- (Rupees
Seventy Lakhs) received by the respondent by invoking the
Banking Guarantee No.021GT02142050011 dated 05.02.2018.

2. Heard Mr.Vijay Meganathan, learned counsel
appearing for the petitioner and Mr.S.R.Rajagopal,
learned Additional Advocate General appearing for the
respondent.

3. It is seen that the petitioner was awarded with the subject matter contract. The petitioner, in terms of the contract, seems to have furnished performance security and additional security by way of two Bank Guarantees and one such Bank Guarantee is the one, referred to in this writ petition. According to the petitioner, when the entire work has been completed by the petitioner firm, the respondent is not justified in invoking the Bank Guarantee.

4. On the other hand, the respondent sought to justify in invoking the Bank Guarantee by making various allegations and contentions also by stating that the contract awarded to the petitioner was also terminated already.

5. Upon hearing both sides and perusing the materials placed before this Court, this Court is not inclined to go into the merits of the contentions raised by both the parties to decide the matter one way or other, since, admittedly, in the agreement entered between the parties, an Arbitration Clause is provided for resolving the dispute or difference arising between the parties in accordance with the Arbitration and Conciliation Act, 1996. When such procedure is contemplated for resolving the dispute, it is for the petitioner to work out such course of action instead of filing writ petition as has been done in this case.

6. Therefore, without expressing any view on the merits of the contentions raised by both the parties, this Writ Petition is disposed of, only by directing the respondent to refer the matter for arbitration as provided under Clause 4 of the agreement entered between the parties within a period of two weeks from the date of receipt of a copy of this order. No costs.

Sd/-

सत्यमेव जयते Assistant Registrar (Co)

//True Copy//

Sub Assistant Registrar

sni/mk

To

The Project Director,
Tamil Nadu Road Sector Project II,
First Floor, TNMB Building,
No.171, South Kesava Perumalpuram,
Opp to Greeways Road, R.A.Puram, Chennai - 600028.

+1cc to Mr. Abdul Saleem, Advocate SR.No. 21347

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