

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 03.07.2019

CORAM
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.25759 & 25760 of 2004
and
W.M.P.Nos.31311 & 31312 of 2004

C.Baskaran

...Petitioner in both W.Ps

Vs.

1.The Commissioner
Pondicherry Municipality
Pondicherry

2.The Chief Engineer
Public Works Department
Pondicherry

... Respondents in W.P.25759/2004

1.The Block Development Officer
Ariyankuppam Blcok
Karikalapakkam, Pondicherry

2.The Chief Engineer
Public Works Department
Pondicherry

... Respondents in W.P.21637/2005

Prayer in W.P.No.25759 of 2004: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the 1st respondent in No.1327/PM/AE-I/2002-2003 dated 08.09.2003 and quash the same and consequentially forbearing the respondents from in any way resorting to inter-departmental recovery without following due procedure of law and adjudication.

Prayer in W.P.No.25760 of 2004: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the 2nd respondent in No.2106/PW/CE/Works/A2/F.No.800/2004-2006 dated 31.08.2004 and quash the same and consequentially forbearing the respondents from in any way resorting to inter-departmental recovery without following due procedure of law and adjudication.

For Petitioner in both W.Ps : Mr.R.Sureshkumar

For Respondents in both W.Ps : Mr.D.Ravichander
AGP (Pondicherry)

COMMON ORDER

These petitions have been filed by the petitioner to issue a writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the 1st respondent in No.1327/PM/AE-I/2002-2003 dated 08.09.2003 and the proceedings of the 2nd respondent in No.2106/PW/CE/Works/A2/F.No. 800/2004-2006 dated 31.08.2004 and quash the same and consequentially forbearing the respondents from in any way resorting to inter-departmental recovery without following due procedure of law and adjudication.

2.The case of the petitioner is that the petitioner is the registered contractor and has been doing contract work regularly under the respondent and the Government of Pondicherry. The petitioner was awarded two contracts under the Agreements. One such contract is for restoration and improvements to the Road at Ezhaimariyamman Kovil Street at Muthialpet and as per the agreement the work order was issued to the petitioner on 30.06.1997 and another one is for construction of Community Hall at Bahourpet in Bahour commune and the work order was issued to the petitioner on 30.07.1990 and the time granted for completion of both the constructions was 10 months. In both the contracts, the petitioner has not completed the construction within the stipulated time and the respondent granted further time for completion of the construction. Even thereafter the petitioner has not completed the work. Hence the respondent in order to complete the construction engaged another contractor. Thereafter the respondent for the purpose of completing work, issued show cause notice to the petitioner for termination of contract. Even thereafter the petitioner has not come forward to complete the work. Hence, the petitioner was given a termination notice and issued an impugned demand order claiming the differential amount for completion of contract work. Aggrieved by the said order, the petitioner is before this court.

3.The learned counsel appearing for the petitioner would submit that though time extension was granted by the respondent to complete the construction work, no material was provided to the petitioner for the completion of contract. Now after a lapse of 15 years, the petitioner is also suffering a huge loss and is unable to deposit the amount demanded by the respondent. The petitioner accordingly prays for some leniency to be shown in settling the issue and the demanded amount may be reduced to

some extent, so that the matter which has been pending for several years shall be settled.

4.The learned Additional Government Pleader appearing for the respondent would submit that after analysing the entire issue, they have issued a demand notice of Rs.2,15,688/- for not completing the construction work of Community Hall and Rs.81,728/- for restoration and improvements to the road. The demanded amount is only a meagre amount, accordingly, prays for dismissal of these writ petitions.

5.This Court after considering the arguments made by the counsel on either side and also on a perusal of the impugned order dated 08.09.2003 and 31.08.2004, it does not contain any detail under what head the compensation has been arrived at and break up details based on which the respondent awarded the differential cost of Rs.2,15,688/- and Rs.81,728/- after deducting EMD amount, and stated that another contractor quoted 43.70% above the estimated cost. The learned counsel for the petitioner submitted that the petitioner completed upto roof level for the amount awarded to him. The learned counsel for the respondent submitted that they do not have any details as to how much they have awarded the petitioner for the said construction work and did not furnish any particulars to the amount awarded upto roof level. In the absence of any proof and in order to settle the entire issue which is pending for the last 15 years, this court is inclined to direct the petitioner to deposit Rs.1,15,000/- (Rupees One Lakh Fifteen Thousand only) instead of Rs.2,15,688/- in W.P.No.25760 of 2004 and Rs.50,000/- (Rupees Fifty Thousand only) instead of 81,728/- in W.P.No.25759 of 2004 within a period of eight weeks from the date of receipt of a copy of this order.

6.With the above direction these writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

सत्यमेव जयते

Sd/-

Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

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To.

1.The Commissioner
Pondicherry Municipality
Pondicherry

2.The Chief Engineer
Public Works Department
Pondicherry

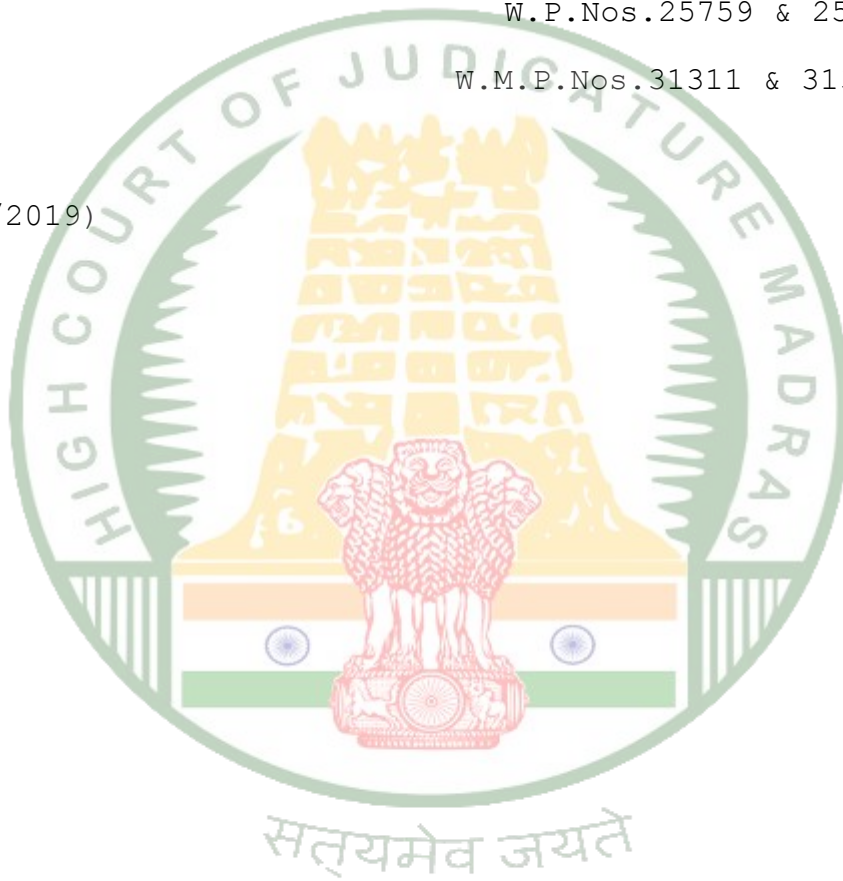
3.The Block Development Officer
Ariyankuppam Blcok
Karikalapakkam, Pondicherry

+2ccs to M/s.La Law Associates, Advocate, S.R.No.55753 & 55754
+1cc to the Government Pleader(Pondy), S.R.No.56118

W.P.Nos.25759 & 25760 of 2004
and
W.M.P.Nos.31311 & 31312 of 2004

BP (CO)

RRS (22/08/2019)



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