



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE R. SURESH KUMAR

W.P. (MD) No. 4611 of 2019

WEB COPY

M. Bhaskaran

... Petitioner

Vs.

1. The Director of Town Panchayat
Directorate of Town Panchayat
Kuralagam, Chennai.
2. The District Collector,
Office of the District Collector,
Dindigul.
3. The Assistant Director of Town Panchayat
Collectorate Complex, Dindigul
4. The Executive Officer,
Ayyampalayam Town Panchayat,
Ayyampalayam
Dindigul District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the 4th respondent herein to disburse a sum of Rs.6,90,872/- being the balance amount of refundable deposit amount/additional deposit amount paid by the petitioner during the period of contract works executed by the petitioner during 2011-2016 by considering his representation dated 21.12.2018 within the time stipulated by this Court.

For Petitioner	: Mr. J. Lawrance
For Respondents	: Mr. M. Rajarajan
	Government Advocate

ORDER

The prayer in the writ petition is for a Writ of Mandamus to direct the 4th respondent to disburse a sum of Rs.6,90,872/- being the balance amount of refundable deposit amount paid by the petitioner during the period of contract works executed by the petitioner during 2011-2016 by considering the representation of the petitioner dated 21.12.2018.

2. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

<https://hcservices.ecourts.gov.in/hcservices/>

3. The learned counsel for the petitioner submits that, though the due payable by the respondents, especially, the fourth



respondent is Rs.6,90,872/-, the said amount has not been paid and only part amount to the extent of Rs.3,43,043/- alone was paid and therefore, in order to get back the remaining amount, the present writ petition has been filed.

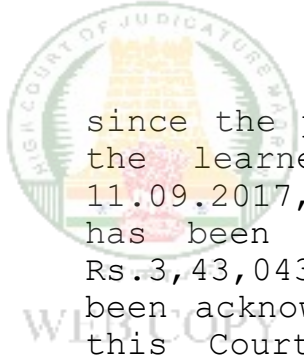
4. However, the learned Government Advocate appearing for the respondents submits that, as against the very same cause of action to get back the amount, which has been deposited to the account of the petitioner, being a Contractor, the petitioner has already filed a writ petition in W.P.(MD) No.16747 of 2017, where, this Court, after hearing both sides, by order dated 11.09.2017, has passed an order directing the second respondent in that writ petition to refund the amount of Rs.3,43,043/- and that has also been paid to the petitioner and the receipt of the same also has been acknowledged by the learned counsel for the petitioner.

5. When that being so, according to the learned Government Advocate for the respondents, there cannot be any further claim, as has been claimed by the petitioner in this writ petition, as there is no scope for anything in this writ petition against the very same cause of action, which has been cleared and concluded by this Court in W.P.(MD) No.16747 of 2017 and therefore, the writ petition is liable to be dismissed.

6. I have considered the said submissions made by either side.

7. The learned counsel for the petitioner submitted that, the actual amount payable by the respondents to the petitioner is not Rs.3,43,043/- and since the respondents admitted the said amount before the learned Judge in the first round of litigation, the learned Judge directed the respondents to pay the said amount, that does not mean that after the said amount of Rs.3,43,043/-, the entire due payable to the petitioner has been paid. Therefore, the learned counsel for the petitioner submitted that, still some more amount has to be paid, which comes for Rs.6,90,872/- being the balance. Therefore, in order to get back the said amount, the present writ petition has been filed. The said submission made by the learned counsel for the petitioner cannot be accepted by this Court, as the said argument is no more available for the petitioner to put forward before this Court at this juncture, because the learned Judge, vide, order dated 11.09.2017 in W.P.(MD) No.13747 of 2017 has passed the following order:

"3. When the matter is taken up for hearing, the learned Government Advocate appearing for the respondents has produced a copy of the communication of the 2nd respondent dated 08.09.2017, which is addressed to him, wherein the 2nd respondent has admitted that the petitioner is entitled to get the refund of a sum of Rs.3,43,043/-, after deducting all the amounts payable by the petitioner to the Panchayat.



since the petitioner has not chosen to challenge the said order of the learned Judge, made in W.P.(MD) No.16747 of 2017 dated 11.09.2017, this Court also come to the conclusion that the issue has been settled between the parties and the said amount of Rs.3,43,043/- has also been paid by the respondents and the same has been acknowledged by the learned counsel for the petitioner. Thus, this Court is of the view that, it cannot show any further indulgence, insofar as the present prayer in seeking further amount from the respondents. Therefore, this Court is of the view that the writ petition deserves to be dismissed. Accordingly, the same is dismissed. However, this order shall not prevent the petitioner to agitate the order passed in W.P.(MD) No.16747 of 2017 dated 11.09.2017 in the manner known to law. No costs.

sd/
Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar(CS)

To

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Ayyampalayam, Dindigul District.

+1 CC to SPL GP (SR-67103[F] dated 06/06/2019)

+1 CC to MR.J.LAWRANCE, Advocate (SR-67317[F] dated 07/06/2019)

W.P. (MD) No.4611 of 2019

04.06.2019

rr

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