

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2020

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.5445 of 2019

K.Dhanasekar

.. Petitioner

Vs.

1.The General Manager
Southern Railway
Park Town, Chennai - 3

2.The Chief Administrative Officer (Construction)
Southern Railway
Egmore, Chennai - 8

3.The Chief Engineer/West
Office of the CAO (Construction)
Southern Railway, Egmore, Chennai - 8

4.The Deputy Chief Engineer (IV)
Southern Railway, 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 forthwith settle the final bill in relation to execution and completion of the work as per Agreement No.69/DyCE/CN/MDU/2013 dated 04.06.2013 on the basis of the representation dated 09.09.2016 and that of the reminder dated 11.12.2018 with accrued interest thereon.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.P.T.Ramkumar for R1 to R4

ORDER

The petitioner has come up with this Writ Petition seeking a direction to the respondents to forthwith settle the final bill in relation to execution and completion of the work as per Agreement No.69/DyCE/CN/MDU/2013 dated 04.06.2013 on the basis of the representation dated 09.09.2016 and that of the reminder dated 11.12.2018 with accrued interest thereon.

2. The case of the petitioner is that he is one of the reputed contractors doing business with the respondents and

other government organisations for the past decades. He has a clear record of completion of work and has not been brought to any adverse notice. According to him, the present issue, which has crept in, relates to release and settlement of a final bill, PVC, etc. pertaining to a fully completed work executed pursuant to an agreement in No.69/DyCE/CN/MDU/2013 dated 4.6.2013. A completion certificate was also issued to the petitioner on 14.07.2015. Despite the same, the petitioner is yet to receive his payment to the tune of Rs.30,67,111/-.

3. It is his further submission that, pursuant to the execution and completion of the contractual work as agreed between the petitioner and the respondents, the agreement value is Rs.1,63,22,000/- and the executed value is Rs.1,94,20,452/- thereby the final bill amount of Rs.30,67,711/- yet remains to be settled. It is his further submission that once on verification of the work completion certificate, the accrued and the executed value stands confirmed so as to enable the concerned authority to pay the final bill as claimed. Since nothing was heard, representations dated 28.10.2016, 10.4.2017 and 11.12.2018 came to be addressed. As there was no response to his representations, he has come up with this writ petition.

4. It appears that there has been an arbitral proceedings between the parties and an award was passed in favour of the respondents, which was subsequently set aside in O.P. No.4/2015 and remitted back to the Arbitrator for fresh consideration. As against the said order, original side appeal in O.S.A. No.2/2020 has been filed by the petitioner and is pending. However, now the relief sought for in this writ petition is to consider the representation dated 09.09.2016 followed by a reminder dated 11.12.2018. The learned counsel for the respondents, would only submit that the final bills could not be settled pending decision of the O.S.A. No.2 of 2020. Therefore, without going into the merits of the case, the fourth respondent, namely the Deputy Chief Engineer (IV), Southern Railway, Madurai, is directed to consider the representation of the petitioner dated 09.09.2016 and that of the reminder dated 11.12.2018, on merits, after affording him a personal hearing, on or before 30.11.2020.

5. With the above directions, this writ petition is disposed of. No costs.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

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4.The Deputy Chief Engineer (IV)
Southern Railway, Madurai.

+1 CC to Mr.P.T.Ramkumar, Advocate sr 32755

+1 CC to Mr.L.Chandrakumar, Advocate sr 33015.

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MG(CO)
SP(14/10/2020)



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