

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.9748 of 2020
and WMP.Nos.11897 of 2020

Contimeters Electricals Pvt. Ltd.,
Represented by its Director & CEO,
Mr.S.C.Kathuria,
Works & Regd. Office at
31, SSI Co-operative Industrial Estate,
G.T.Karnal Road, Opp. Jahangirpuri,
Delhi 110 033. ... Petitioner

Vs.

- 1.The Chairman,
M/s.Tamilnadu Generation & Distribution
Corporation Ltd.,
10th Floor, NPKRR Maaligai,
144, Anna Salai,
Chennai-600 002.
- 2.The Director Distribution,
M/s.Tamilnadu Generation & Distribution
Corporation Ltd.,
10th Floor, NPKRR Maaligai,
144, Anna Salai,
Chennai-600 002.
- 3.The Chief Engineer/Material Management,
M/s.Tamilnadu Generation & Distribution
Corporation Ltd.,
10th Floor, NPKRR Maaligai,
144, Anna Salai,
Chennai-600 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Mandamus, to call for the records in Lr.No.CE/MM/SE/MM-II/EE-M/AEE-1/P.O.113/D.236/238,2010 dt:18.12.2018 on the file of the 3rd respondent and quash the same and further direct the respondents to pay a sum of Rs.81,91,415/- with 22% interest in respect of P.O.No.113/07 based on the letter dated 12.12.2019, and pass orders.

For Petitioner : Mr.S.C.Vishwanath

For Respondents: Mr.Vijaya Mehnath
Standing Counsel.

O R D E R

This Writ Petition has been filed challenging the impugned letter dated 18.12.2018 of the 3rd respondent and for a consequential direction to the respondents to pay a sum of Rs.81,91,415/- with interest.

2.The case of the petitioner is that the petitioner was awarded a contract by the respondents for supply of materials. The contract is governed by an agreement dated 06.07.2007. The petitioner on completion of his part of the contract had submitted the bill for settling him the amount due and payable on the contract.

3.The 3rd respondent by letter dated 18.03.2018 informed the petitioner that there is a delay in supply of 56,87,758 meters and therefore a sum of Rs.69,59,071/- has to be recovered by the respondent. Aggrieved by the said letter, the petitioner gave a detailed representation on 02.01.2019 to the respondents explaining as to why there was a delay in the supply of 56,87,758 meters and called upon the 3rd respondent to withdraw the letter dated 18.12.2018. Subsequently, one more representation was made on 12.12.2019. Through this representation, the petitioner had demanded for the payment of a sum of Rs.84,31,960/- with interest from the respondents. Since this representation did not evoke any response, the petitioner has filed the present writ petition before this Court challenging the impugned order of the 3rd respondent.

4.Heard Mr.S.C.Vishwanath, learned counsel appearing on behalf of the petitioner and Mr.Vijaya Mehnath, learned counsel appearing on behalf of the respondents.

5.The sum and substance of the dispute that is involved in the present writ petition is with regard to the alleged delay in supply of materials towards which the TANGEDCO had deducted certain amounts payable to the petitioner. The petitioner had sent two representations in this regard explaining as to why there is a delay and he has called upon the respondent to pay him the entire amount with interest. This representation had not evoked any response.

6.It is clear from the above that there are disputed questions of facts involved in this case and this Court in exercise of its jurisdiction under Article 226 of Constitution of India normally does not go into such disputed facts. The appropriate forum to agitate a claim of this nature is the Civil Court, where the parties can let in evidence. Therefore, this Court is not inclined to grant the relief as sought for by the petitioner.

7.The petitioner has already given two representations to the respondents on 02.01.2019 and 12.12.2019. Both those representations are yet to be considered by the respondents. It will be therefore appropriate for the respondents to take a stand with regard to the representations made by the petitioner, so that the petitioner can proceed further with the future course of action.

8.In view of the above discussion, there shall be a direction to the 3rd respondent to consider the representations made by the petitioner on 02.01.2019 and 12.12.2019 and deal with the same in accordance with the terms of the contract. The 3rd respondent shall communicate to the petitioner the decision taken by the TANGEDCO on the representation made by the petitioner within a period of four weeks from the date of receipt of copy of this order. If the response from the TANGEDCO is not to the satisfaction of the petitioner, it is well open to the petitioner thereafter to agitate their right before the appropriate forum.

9.The petitioner is directed to make a fresh representation to the 3rd respondent along with a copy of the letter dated 18.12.2018 of the 3rd respondent and the representations dated 02.01.2019 and 12.12.2019 and also a copy of this order.

10.This writ petition is disposed of with the above directions. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

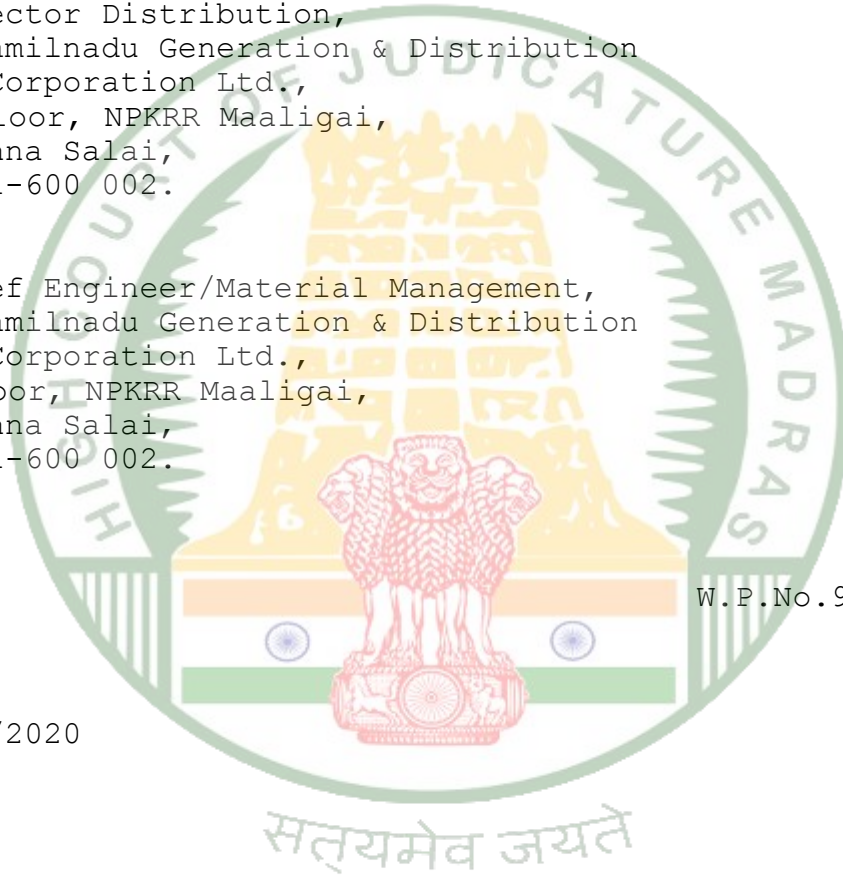
rm

To

- 1.The Chairman,
M/s.Tamilnadu Generation & Distribution
Corporation Ltd.,
10th Floor, NPKRR Maaligai,
144, Anna Salai,
Chennai-600 002.
- 2.The Director Distribution,
M/s.Tamilnadu Generation & Distribution
Corporation Ltd.,
10th Floor, NPKRR Maaligai,
144, Anna Salai,
Chennai-600 002.
- 3.The Chief Engineer/Material Management,
M/s.Tamilnadu Generation & Distribution
Corporation Ltd.,
4th Floor, NPKRR Maaligai,
144, Anna Salai,
Chennai-600 002.

W.P.No.9748 of 2020

ajs[col]
srg 04/11/2020



WEB COPY