



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.10.2020

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P(MD).No.13629 of 2020

R.Meganathan

.. Petitioner

Vs.

The Commissioner,
Nagercoil Municipality,
Nagercoil,
Kanyakumari District.

.. Respondent

PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Mandamus, to direct the respondent to disburse the final amount of Rs.3,55,840/- with interest for the works of cement concrete pavements road in Ward No.31, Kannimar Mettu Street, Stadium Nagar, completed and handed over to the respondent in the year 2016 and pass orders within the time stipulated by this Court.

For Petitioner : Mr.F.Deepak

For Respondent : Mr.P.Athimoola Pandian
Standing Counsel

ORDER

This writ petition has been filed for a Mandamus seeking for a direction to the respondent to disburse the final amount of Rs.3,55,840/- with interest to the petitioner for the works done by him with regard to laying the Cement Concrete Pavement Road in Ward No.31, Kannimar Mettu Street, Stadium Nagar, completed and handed over to the respondent in the year 2016.

2. Heard Mr.F.Deepak, learned counsel for the petitioner, and Mr.P.Athimoola Pandian, learned Standing Counsel appearing for the respondent and perused the materials available on record.

3. According to the petitioner, the respondent Municipality has not paid the aforesaid sum for the services rendered by him. The Association which represents the petitioner has given a representation on 17.10.2017 seeking for payment of dues.



4. Mr.P.Athimoola Pandian, learned Standing Counsel appearing on behalf of the respondent would submit that there are disputed questions of fact involved in this matter and therefore, the writ petition is not maintainable. On instructions he would also submit that the amount claimed by the petitioner is disputed by the respondent Municipality.

5. It is settled law that wherever there are disputed questions of facts that too when the petitioner seeks for recovery of money, a writ petition is not maintainable. However, the petitioner only seeks for a direction to direct the respondent Municipality to consider the petitioner's representation seeking for payment of money for a sum of Rs.3,55,840/-, which according to him is the payment due for the works contract performed by him at Ward No.31, Kannimar Mettu Street, Stadium Nagar, Nagercoil at Kanyakumari District. No prejudice will be caused to the respondent Municipality if the representation of the petitioner is considered on merits and in accordance with law. Since earlier representation was given by the Association representing the petitioner, the same cannot be considered by the respondent and hence a fresh representation will have to be given by the petitioner to the respondent Municipality with regard to the alleged non-payment of dues for the works contract performed by him.

6. Accordingly, this Court directs the petitioner to give a fresh representation to the respondent Municipality within a period of one week from the date of receipt of a copy of this order requesting the respondent to consider his representation and disbursement of a sum of Rs.3,55,840/- which according to him is due and payable for the works contract performed by him at Ward No.31, Kannimar Mettu Street, Stadium Nagar, Nagercoil at Kanyakumari District. On receipt of such representation, the respondent Municipality shall consider and pass final orders on merits and in accordance with law within a period of six weeks thereafter.

7. With the aforesaid direction, this writ petition stands disposed of. No Costs.

Sd/-

Assistant Registrar (CS-II)

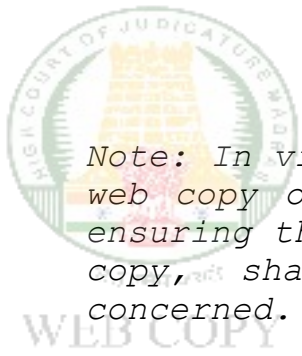
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Sub Assistant Registrar(CS)

PJL

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

+1 CC to M/s.F. DEEPAK, Advocate (SR-20576[F] dated 20/10/2020)

W.P(MD) .No.13629 of 2020

16.10.2020

PM (CO)

NR (02/11/2020) 3P : 2C