



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.02.2020

CORAM

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THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**

W.P. (MD)No.18921 of 2015

S.D.John

... Petitioner

Vs.

- 1.The Deputy Secretary to Government,
Information Technology Department,
Secretariat, Chennai.
- 2.The Managing Director,
Electronics Corporation of Tamil Naud Ltd.(ELCOT),
MHU Complex, IInd Floor,
692, Anna Salai,
Nandham, Chennai-600 035.
- 3.The Managing Director,
East Coast Constructions and
Industries Ltd.,
Engineers and Cotractors,
Buhari Buildings,
No.4 Moores Road,
Chennai-600 006.
- 4.The Managing Director,
Syntel International Private Limited,
SEZ Developer, Plte No.H7 & H8,
SIPCOT IT Park,
Siruseri,
Kancheepuram District.
- 5.The Project Manager,
Syntel International Private Limited,
SIPCOT, Gangaikondan,
Tirunelveli Taluk,
Tirunelveli District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the second respondent to direct the third respondent to disburse payment of Rs.33,78,250/- due to the petitioner for the works carried out by him under work order in ECCI/Syn(T)/3769/2013 dated 24.05.2013 by

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considering the petitioner's representation dated 15.09.2015 within the period that may be stipulated by this Court.

For Petitioner : Mr.R.Rajeshkumar

For R1 : Mr.C.Ramar,
Additional Public Prosecutor.

For R2 : M/S.King & Partridge

ORDER

This writ petition has been filed to direct the second respondent to direct the third respondent to disburse payment of Rs.33,78,250/- due to the petitioner for the works carried out by him under work order in ECCI/Syn(T)/3769/2013 dated 24.05.2013 by considering the petitioner's representation dated 15.09.2015 within a time frame.

2.It is stated by the petitioner that the petitioner is a contractor carrying construction business under the name and style of "S.D.John Earth Movers". It is admitted by the petitioner that he was allotted drilling and excavation work for the fourth and fifth respondents on the work order issued by the third respondent. It is also stated that the work was assigned in the site of the fifth respondent and that the third respondent is directly controlled by the second respondent which is a public sector undertaking.

3.The third respondent is a Private Limited Company and other respondents have not entered into any agreement with the petitioner. Hence, this Court only assume that the petitioner did some work as per the contract between the third respondent and the petitioner. The third respondent is not a State, within the meaning of Article 12 of the Constitution of India and hence, no writ petition is maintainable. The petitioner impleaded all other respondents without disclosing the nature of contractual obligation in connection with the excavation work done by the petitioner.

4.Counter affidavit has been filed by the second respondent stating that the third respondent is not under the control of the second respondent. It appears that some dispute is raised by the third respondent. However, it is stated that the third respondent is a Private Limited Company and that the second respondent has no relationship with the third respondent.

5.Though the representation submitted by the petitioner to the first respondent was forwarded to the second respondent, the second respondent is not liable as there is no agreement between the petitioner and the second respondent.



6.This matter relates to contract and this Court normally do not entertain this kind of writ petition and the petitioner's claim is not admitted by any of the respondents.

7.Since the second respondent has no authority to control the third respondent for the work order issued by the third respondent, the second respondent or any other respondents cannot be held liable for the payment in connection with the work order issued by the third respondent. There is no privity of contract. Hence, with a liberty to the petitioner to workout his remedy as against the third respondent, in the manner known to law, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

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/ /2020

Sub Assistant Registrar(CS)

gns

To
The Deputy Secretary to Government,
Information Technology Department,
Secretariat, Chennai.

+1 CC to M/s.SPL.GP (SR-6328[F] dated 14/02/2020)

W.P. (MD)No.18921 of 2015
13.02.2020

JMN(25.02.2020) 3P : 3C