



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.11912 & 11913 of 2011

M/s.Subaya Constructions Co. Ltd.,
Rep. by its Directors Mrs. S.Meenakhsi,
No.21, Soundarapandian Salai,
Ashok Nagar, Chennai - 600 083. ... Petitioner in both WPs.

Vs.

1.The Chief Engineer,
TWAD Board
Northern Region,
Vellore.

2.The Superintending Engineer,
TWAD Board, Sewerage Circle,
Northern Region,
Vellore,

3.The Executive Engineer,
TWAD Board,
Urban Division,
Villupuram.

...Respondents in both WPs.

Prayer in W.P.No.11912 of 2011: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the Respondents to pay the sum of Rs.3,89,54,298.50 to the petitioner for the additional works and items imposed on the Petitioner by the Respondent in respect of the tender, together with interest at the rate of 18% per annum from the date of this Petition.

Prayer in W.P.No.11913 of 2011: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the Respondents to pay the sum of Rs.2,59,61,144/- to the petitioner for the additional works and items imposed on the Petitioner by the Respondent in respect of



the tender, together with interest at the rate of 18% per annum from the date of this Petition.

For Petitioner : Mr. B.Natarajan

For Respondents : Mrs. S.Shahila Bhanu

C O M M O N O R D E R

The relief sought for in the present Writ Petitions is to direct the respondents to pay a sum of Rs.3,89,54,298.50/- and Rs.2,59,61,144/-, respectively to the petitioner for the additional works.

2. The grievances of the Writ Petitioner is that he is a contractor entered into an agreement with the respondent, TWAD Board for execution of underground Sewage Treatment Plant. The learned counsel for the petitioner made a submission that the petitioner had completed the work allotted and thereafter some additional works were granted to the petitioner and in respect of the additional works the payment is yet to be settled. Thus, the petitioner is constrained to move the present Writ Petitions.

3. Mr.V.Anbalagan, Executive Engineer, TWAD Board, Urban Division, Villupuram and Mr.S.Thirumurugan, Assistant Engineer, Legal Cell, Chennai appeared in person along with the files. It is pointed out by the respondents that no such additional works were allotted to the petitioner. The works already included in the agreement alone was executed by the petitioner and in terms of the agreement, the amount was also settled. Thus, the Writ Petitions are liable to be dismissed.

4. It is further contended that even in the agreement the Civil Court jurisdiction has been agreed between the parties and therefore the Writ Petitions are not maintainable.

5. This Court is of the considered opinion that the contractual obligation between the parties cannot be adjudicated under Article 226 of the Constitution of India. Such an adjudication requires examination of documents in original, evidences including oral evidences. Thus, the parties are bound to approach the competent Court of law for resolving the disputes.

6. In the present case the petitioner states that additional works were given and they executed the additional works and the payment for the same is yet to be settled.



7. Per contra, the respondents pleaded that no such additional works were allotted to the petitioner and the works included in the agreement alone were executed by the petitioner and therefore the claim itself is untenable. When the facts regarding execution of work itself is disputed with reference to the terms and conditions of the contract then adjudication becomes imminent and the parties are at liberty to approach the competent Court of law for the redressal of their grievances. If at all any such proceedings are initiated, the competent Court is bound to adjudicate the same in accordance with law.

8. With these observations, the Writ Petitions are dismissed. No costs.

Sd/-

Assistant Registrar(CS-V)

// True Copy //

Sub Assistant Registrar

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To

1.The Chief Engineer,
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W.P.No.11912 & 11913 of 2011

SSI(CO)
CB(13/12/2021)