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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.23320 of 2011
and M.P.No. 1 of 2011

T.Rajavelu

...Petitioner

Vs

1. The Divisional Engineer,
Highways Department,
Kallakurichi Division,
Villupuram Circle & District.

2. The Superintending Engineer,
Highways Department, Villupuram & District.

3. The Asst. Divisional Engineer,
Highways Department,
Sankarapuram, Villupuram District.

4. The Tahsildar,
Sankarapuram Taluk,
Villupuram District.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records on the file of the first respondent relating to the order issued in Ka.No.662/2005/A3 dated 29.05.2009 and quash the same.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.K.M.D.Muhilan
Government Advocate



ORDER

The order dated 29.05.2009 demanding the balance amount to be paid by the petitioner in Government Accounts is under challenge in the present writ petition.

2. The petitioner is registered Contractor and had carried out various contract works for the Highways Department and to other Government Departments. In respect of Kallakkurichi Division, Highways Department has floated tender for road laying works connecting Sankarapuram to other Districts and the name of the work is "Improvements of other District Roads in Sankarapuram (Highways) to other Division (Package II)".

3. The petitioner was a successful tenderer and has paid the EMD and also the security. There are certain issues in respect of the completion of works and the Government Department raised an allegation that the petitioner / contractor has not completed his work as per the contract. Thus, the contract was canceled and the petitioner was directed to pay the amount due to the Government. The said order is challenged in the present writ petition.

4. The Contract was terminated on 14.08.2006 itself. The Divisional Engineer (Highways), Kallakurichi, had initiated action for recovery. Therefore, this Court is of the considered opinion that such contractual obligations between the parties cannot be adjudicated in a writ proceedings under Article 226 of Constitution of India. Admittedly, the contract awarded in favour of the petitioner was cancelled by the Highways Department. Therefore, the issues require an elaborate adjudication with reference to the documents and evidences and if it all, the claims set out by the authority is erroneous, it is for the petitioner to establish the same before the competent Court of law or before the Arbitrator, if there is an arbitration clause available in the agreement.

5. Thus, the petitioner has to approach the competent Court of law for adjudication of such disputed issues. High Court cannot simply consider the issues, as it requires examination of documents and evidences.

6. This being the factum, the petitioner is at liberty to



approach the competent Civil Court of law, if his grievances are not yet redressed. Equally, the respondents are also at liberty to initiate any further action in the manner known to law.

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7. With these observations, the writ petition stands disposed of. No Costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Divisional Engineer,
Highways Department,
Kallakurichi Division,
Villupuram Circle & District.
2. The Superintending Engineer,
Highways Department,
Villupuram & District.
3. The Asst. Divisional Engineer,
Highways Department,
Sankarapuram, Villupuram District.
4. The Tahsildar,
Sankarapuram Taluk, Villupuram District.

+1cc to Mr.G.Sankaran, Advocate, S.R.No.52935

+1cc to the Government Pleader, S.R.No.53235

W.P.No.23320 of 2011

GSM(CO)
SB(27/10/2021)