



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2021

CORAM

THE HONOURABLE MR.JUSTICE R. MAHADEVAN

W.P. No. 25202 of 2015

and

M.P. No. 1 of 2015

Senthil Muthu

.. Petitioner

Versus

1. The Managing Director
Chennai Metro Rail Ltd.,
CMRL Depot, Admin Building
Poonamallee High Road
Koyambedu, Chennai - 600 107

2. M/s. Mos Metro India Pvt., Ltd
ASV, Adarsh Building, 3rd Floor
Block - "C", No. 719, Pathari Road
Chennai - 600 002

3. M/s. Gammon - OJSC Mosmetrostroy (JV)
ASV, Adarsh Building, 3rd Floor
Block - "C", No. 719, Pathari Road
Chennai - 600 002

4. M/s. OJSC "Mosmetrostroy"
Q-1-06-55/C, P.O. Box 122730
Sharjah, United Arab Emirates

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the first respondent to settle the dues of the petitioner amounting to Rs. 20,62,500/- for the supplies made for the ongoing metro rail project on the basis of invoices raised by the petitioner

For Petitioner : Mr. V. Raghavachari

For Respondents : Mr. Jayesh B. Dolia for R1
Mr. V. Vinay Metha (for R2)
Mr.S.Giritharan for R3



O R D E R

The relief sought for in this writ petition is to issue a Writ of Mandamus directing the first respondent to settle the dues of the petitioner to the tune of Rs. 20,62,500/- for having effected supplies for the ongoing metro rail project on the basis of invoices raised by the petitioner.

2. The petitioner is the proprietor of the firm, which is engaged in the business of hiring gantry cranes. The first respondent is a public undertaking between the Centre and State and was incorporated for the construction of an underground mass rail transit system. For the purpose of implementation of the project envisaged by the 1st respondent herein, the second respondent was formed. The fourth respondent is a holding company of the second respondent, which is a joint venture partner of the third respondent and the assets are standing in the name of the 4th respondent. As the second respondent approached the petitioner for supply of gantry cranes for excavation work, the petitioner supplied a 20 ton gantry crane at the May Day Park Site and a 40 ton curved track gantry crane at Saidapet Station site for the project of the first respondent. After supplying the cranes as mentioned above, the petitioner raised invoices for payment. According to the petitioner, in spite of receipt of the invoices raised by the petitioner from March 2013 onwards, the 2nd respondent did not effect payment of Rs.20,62,500/-, as on the date of filing the writ petition. It is also stated that as on the date of filing of the writ petition, the second respondent is liable to pay a sum of Rs.30.00 crores to the vendors/suppliers including the petitioner for the supplies made to the project of the first respondent. It is also stated that the first respondent is holding a sum of Rs.112.00 crores payable to the second respondent.

3. It is the grievance of the petitioner that though the petitioner is entitled for the sum of Rs.20,62,500/- being the outstanding amount payable by the second respondent towards the supply of cranes effected for the project envisaged by the first respondent, the second respondent has been evading payments. It is the further grievance of the petitioner that due to non payment of outstanding dues, the petitioner is unable to pay running bills and payment for the various machineries purchased by it for the project under hypothecation and the financial institution are taking steps to realise the amount from the petitioner by bringing those machineries for auction.

4. Heard both sides and perused the materials available on record.



5. This Court is of the view that the contentions raised in this Writ Petition cannot be decided by this Court under Article 226 of the Constitution of India, as it requires a full fledged trial. Whether the respondents are liable to pay the amount as claimed by the petitioner for having effected the supplies made by them cannot be examined by this Court. Hence, the relief sought for in this writ petition cannot be granted, however, it is open to the petitioner to approach the competent Civil Court and raise all the contentions which are raised in this writ petition. In such an event, the period spent in filing this Writ Petition shall be excluded for the purpose of computation of period of limitation.

6. Accordingly, this Writ Petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

msr

To

1. The Managing Director,
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VGII (CO)
PR (01/10/2021)