



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.14016 OF 2014

AND

M.P.NOS.1 AND 2 OF 2014

M/s.East Coast Constructions
& Industries Limited,
Represented by its Managing Director,
Mr.K.T.M. Ahamed Mustafa
Having Office at:
"Bukharia Buildings",
No.4, Moores Road,
Chennai - 600 006.

... Petitioner

.Vs.

1. M/s.Tamil Nadu Minerals Limited,
#31 Kamarajar Salai,
TWAD House, Chepauk,
Chennai - 600 005.

2. The District Collector,
District Collectorate,
Chennai - 600 001.

3. The Tahsildar,
Egmore Taluk,
Chennai - 600 008.

... Respondents

PRAYER:- Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the second respondent in Pro.No.G2/12022/2014 dated 09.05.2014 and quash the same.

For Petitioner : Mr.P.J.Ganesh
For Mr.P.J.Rishikesh

For Respondents : M/s.A.Sri Jayanthi
[For R1]

Mr.K.M.D.Muhilan
Government Advocate
[For R2 and R3]



WEB COPY

O R D E R

The proceedings of the second respondent/District Collector dated 09.05.2014 under Revenue Recovery Act is under challenge in the present writ petition.

2. The petitioner is a Contractor, more specifically, involved in the business of constructions and industries. The petitioner states that they are leading civil engineering contractors and they entered into a contract with the first respondent/M/s.Tamil Nadu Minerals Limited. The first respondent supplied materials for construction of the 'Tamil Nadu Assembly project' at Omendharur Government Estate, Chennai. Several service orders for purchase of Granites were made from the first respondent for the period commencing September 2009 until May 2011. The terms and conditions of payment, delivery location, have been clearly agreed upon and stated in the purchase orders between the parties.

3. It is contended that the terms and conditions of contract are unambiguous and therefore, invoking the provisions of the Revenue Recovery Act in an unilateral manner is not in accordance with law. The second respondent/District Collector initiated action and issued the impugned proceedings based on the application submitted by the first respondent on 28.04.2014. The said letter was not even communicated to the petitioner. Based on the application submitted by the first respondent regarding details of payment dues, the second respondent/District Collector initiated recovery proceedings by invoking the provisions of the Revenue Recovery Act.

4. The learned Government counsel appearing on behalf of the respondents state that the District Collector is no way connected with the disputes between the parties. Once the 'State' or an instrumentality of the State submits an application regarding the dues to be recovered, then the District Collector/Competent Authority is empowered to recover the due amount by invoking the provisions of the Revenue Recovery Act. Thus, the said application need not be communicated to the persons. It is an application for initiation of proceedings under the Revenue Recovery Act. The disputes, if any, between the parties, must be resolved in the manner known to law.

5. This apart, the impugned order is an order, authorizing the jurisdictional Tahsildar to proceed for recovery of revenue based on the application submitted by the first respondent by following the procedures as contemplated under the provisions of the Revenue Recovery Act. This being the nature of the impugned proceedings, the writ petition is to be rejected.



6. The question arises, whether the provisions of the Revenue Recovery Act needs to be invoked in such circumstances, when it is an admitted fact that the contractual obligations are in existence between the parties. It is not in dispute that the petitioner is an authorized contractor and the first respondent supplied many materials including Granites periodically for construction of Government projects.

7. The grievances of the petitioner is that the Public Works Department has not repaid the amount due to the petitioner. Therefore, the petitioner is unable to settle the dues to the first respondent. The Public Works Department is also Government Department and only in the event of settling the amount, the petitioner would be in a position to pay the first respondent.

8. The said submission is objected by the learned counsel for the first respondent by stating that contract is between the petitioner and the first respondent and they cannot connect the other dues with the other Departments in respect of the materials supplied by the first respondent to the writ petitioner. However, all these disputed factors are to be adjudicated in the manner known to law. Such an adjudication cannot be entertained in a writ proceedings under Article 226 of the Constitution of India. Such issues need not be adjudicated, in view of the fact that there is no specific clause in the agreement for invoking the provisions of the Revenue Recovery Act.

9. The first respondent is an instrumentality of the 'State'. Thus, the dues shall be recovered by invoking the provisions of the Revenue Recovery Act. However, in respect of certain agreements, unless there is a clause for invoking Revenue Recovery Act, the authorities competent cannot issue notice under Revenue Recovery Act without any adjudication. Adjudication of issues are necessary for the purpose of crystallizing the rights of the parties. Once, the dues are ascertained, then recovery proceedings shall be initiated.

10. The learned Government counsel appearing on behalf of the respondents state that the first respondent has to either approach the NCLT or to approach the Competent Civil Court of Law for the purpose of recovery of the dues. However, it is for the first respondent to take a decision to resolve the issues in the manner known to law.

11. As far as the petitioner is concerned, they are entitled to establish their case, if any actions are initiated by the first respondent. With reference to the dues to be paid to the petitioner by the Public Works Department, it is for the petitioner to workout their remedy. Thus, it is for the



respective parties to work out their remedy in the manner known to law.

12. As far as the limitation aspect is concerned, the writ petition was filed in the year 2014 and is pending before this Court. Thus, the parties aggrieved is at liberty to file an appropriate application for condoning the delay and in the event of filing any such application, the Competent Forum / Court shall consider the period, during which, the writ petition is pending before the High Court.

13. Accordingly, the impugned order passed by the second respondent in proceedings Pro.No.G2/12022/2014 dated 09.05.2014 is quashed and the writ petition stands allowed. Thus, the parties are at liberty to approach the competent Court of law for the purpose of redressal of their grievances in the manner known to law. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

kak/nti

To

1. M/s.Tamil Nadu Minerals Limited,
#31 Kamarajar Salai,
TWAD House, Chepauk,
Chennai - 600 005.
2. The District Collector,
District Collectorate,
Chennai - 600 001.
3. The Tahsildar,
Egmore Taluk,
Chennai - 600 008.

+1cc to Mr.P.J.Rishikesh, Advocate, S.R.No.56266

+1cc to the Government Pleader, S.R.No.55901

W.P.NO.14016 OF 2014

SSV(CO)
PBS/17/11/2021