



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2021

CORAM:

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.28946 of 2017

M/s.Seahorse Marine Engineering Pvt.Ltd.,
Represented by its Managing Director,
Mr.John Pondiyan
S/o, John, having office at
168/Area-1, Plot No.235 & 236, Near DP World,
North West Chookhani Godown,
Chennai Port Trust,
Chennai 600 001.

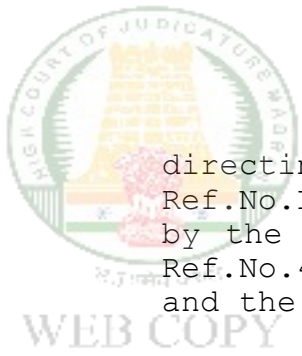
...Petitioner

Vs

1. The Additional Principal Secretary,
Government of Tamil Nadu,
P.W.D. Department, (5th Floor),
Namakkal Kavignar Maligai,
Fort St.George,
Chennai 600 009.
2. The Engineer in Chief,
Water Resources Department,
P.W.D. Head Quarters,
Chepauk, Chennai 600 005.
3. The Chief Engineer,
P.W.D.Periyar Vaigai Division,
P.W.D. Complex,Thallakulam,
Madurai 625 001.
4. The Superintending Engineer,
WRO/PWD
P.W.D., Periyar Vaigai Division,
P.W.D. Office,
(Near Meenakshi Amman Temple)
Madurai 625 001.
5. The Executive Engineer,
Periyar Dam Division,
P.W.D., Kambam,
Theni District 625 516.

...Respondents

Prayer:Writ Petition filed Under Article 226 of the Constitution
of India praying for issuance of Writ of Mandamus thereby



directing the 5th respondent to implement the order in Ref.No.Lr.No.12M/DB/AET/F.43(Boat)/2017/dated 21.02.2017 passed by the 5th respondent in the subject matter of agreement order Ref.No.41SE/PVBC/2012-2013, dated 28.09.2012 between petitioner and the 4th respondent in a time bound period.

For Petitioner : M/S.K.Mohanamurali

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

O R D E R

This Writ Petition has been filed seeking mandamus on the 5th respondent to implement the order dated 21.02.2017 passed by the 5th respondent in the subject matter of agreement Ref.No.41SE/PVBC/2012-2013, dated 28.09.2012 entered into between petitioner and the 4th respondent in a time bound manner.

2. The learned counsel appearing for the petitioner is that, the petitioner has entered into an agreement dated 28.09.2012 with the 4th respondent for manufacture and supply of two Boats to Mullai Periyar Dam for the use of Tamil Nadu Water Resources Department. As per the said agreement, the petitioner manufactured two new boats as early as on 09.09.2015 and intimated the same to the fourth respondent on various occasions and subsequently, sent a letter, dated 21.02.2017, seeking for payment. Despite the same, the payment has not been made. Further, the learned counsel submits that there was no dispute over the payment. In fact, the 5th respondent also issued a letter, dated 21.02.2017 to the petitioner with regard to the payment to be made to the petitioner, as soon as the receipt of the fund from the Government. Thereafter, the petitioner has given a representation dated 07.10.2017. Since no action has been taken by the 5th respondent to release his amount, as per the contract dated 28.09.2012, hence, the present writ petition has been filed.

3. Per contra, Mr.K.M.D.Muhilan, the learned Government Advocate submits that this issue relates to release of money, it is not known whether, as per the agreement, the petitioner delivered the boats. Under these circumstances, the learned Government Advocate submits that, in the event of any order is being passed, directing the respondent to make payment, this Court may grant liberty to the respondents to pay only the admitted portion of the amount. In case, if there is any dispute with regard to outstanding dues, the parties maybe relegated to the civil proceedings so as to settle the dispute.



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

5. As per the agreement, dated 28.09.2012, the petitioner has manufactured two boats and intimated the same to the fourth respondent on several occasions (i.e) on 09.09.2015, 06.01.2016, 23.04.2016, 17.07.2016, 17.11.2016, 27.11.2016 and 19.01.2017 and subsequently, it was handed over to the 5th respondent/The Executive Engineer. Though, it is stated vide letter dated 22.07.2017, that the boats were delivered, but no document has been produced with regard to the date of delivery.

6. In such circumstances, this Court cannot pass any positive orders to directing the 4th and 5th respondents to settle the entire claim of the petitioner. Therefore, in the event, the petitioner handed over the boats in terms of the agreement, dated 28.09.2012, the 5th respondent shall consider the petitioner's representation on 07.10.2017 and release the entire outstanding amount which is payable to the petitioner within a period of eight weeks from the date of receipt of a copy of this order. In case, if there is any dispute over the outstanding amount payable to the petitioner, liberty is granted to the parties to adjudicate the issue before the Civil Court.

7. With the above directions this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

jd

To

1. The Additional Principal Secretary,
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5. The Executive Engineer,
Periyar Dam Division,
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Theni District 625 516.

+1cc to Mr.K.Mohanamurali, Advocate, S.R.No.61688

+1cc to the Government Pleader, S.R.No.62234

W.P.No.28946 of 2017

GSM(CO)
RGA(20/12/2021)