



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.08.2021

CORAM:

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P. (MD) .No.13967 of 2021

and

W.M.P(MD) Nos.10912 & 10913 of 2021

WEB COPY

M/s. KCP Engineers Pvt. Ltd.,
No.9A-9th Floor,
Pricol Caledon Sqaure,
Avinashi Road, Peelamedu,
Coimbatore - 641 004.
Rep by its Director,
K.Muthukumarasamy.

... Petitioner

Vs.

1.The Superintending Engineer,
Highways Department,
Construction & Maintenance,
Trichy Circle, Trichirappalli - 20.

2. The Divisional Engineer,
Highways Department,
Construction & Maintenance,
Trichy Circle, Thanjavur Division,
Thanjavur.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, forbearing the respondents from preventing the petitioner from executing the balance work and terminating the contract partly or wholly awarded to the petitioner in pursuant to the Tender Notice No.39/2019-2020/HDO dated 17.03.2020 on the file of the first respondent without following the procedure of law.

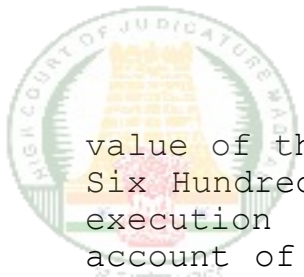
For Petitioner : Mr.S.Doraisamy

For Respondents : Mr.R.Baskaran
Counsel for State

ORDER

The petitioner seeks to prevent the respondents from impeding the execution of balance work under a contract awarded to the petitioner by the respondents herein.

2. The petitioner states that pursuant to a tender floated in March 2020, a contract was awarded to the petitioner for undertaking rectification and related maintenance activities in respect of major district roads. It is stated that the approximate



value of the work awarded under the contract is Rs.662 Crore (Rupees Six Hundred and Sixty Two Crore). According to the petitioner, the execution of work was impeded due to the lock down imposed on account of the Covid-19 pandemic. Although the contract contains a provision for termination, it is alleged that the respondents are preventing the petitioner from executing work without taking recourse to the contractual provisions in such regard. The present writ petition is filed in these facts and circumstances to prevent the respondents from impeding the execution of work by the petitioner.

3.Mr.R.Baskaran, learned standing counsel for the State, accepts notice on behalf of both the respondents. He submits that the respondents have not impeded the execution of work by the petitioner under the contract. On the contrary, he states that the petitioner has only executed 28% of the work till date, whereas about 50% should have been executed as on date. He also submits that communications have been addressed to the petitioner with regard to the tardy progress of work and that such communications have been suppressed by the petitioner.

4.Ordinarily, in exercise of extraordinary jurisdiction under Article 226 of Constitution, this Court would decline to interfere in matters pertaining to contracts. In the case at hand, the petitioner has approached this Court for the limited purpose of preventing the respondents from impeding further work by the petitioner in accordance with the contract awarded to such petitioner. In view of the statement by learned counsel for the State to the effect that the respondents have not impeded the execution of work, nothing survives for further adjudication in the present writ petition.

5.Accordingly, the writ petition is disposed of by recording the aforesaid statement on behalf of the respondents. It is made clear that both parties are entitled to exercise their respective rights or enforce the respective obligations of the counter party in terms of the contract between them. In case the petitioner is aggrieved by any decision taken in terms of the contract, it is always open to the petitioner to institute appropriate legal proceedings in such regard. W.P.(MD) No.13967 of 2021 is disposed of on these terms without any order as to costs. Consequently, W.M.P(MD) Nos. 10912 & 10913 are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

WEB COPY

To

1.The Superintending Engineer,
Highways Department,
Construction & Maintenance,
Trichy Circle, Trichirappalli - 20.

2. The Divisional Engineer,
Highways Department,
Construction & Maintenance,
Trichy Circle, Thanjavur Division,
Thanjavur.

+1 CC to M/s.GP (SR-26049[F] dated 12/08/2021)

W.P. (MD) .No.13967 of 2021

11.08.2021

RD(19.08.2021) 3P 4C