



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.10.2021

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WEB COPY

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD).No.18042 of 2021

P.K.R.Ravindrakumar

... Petitioner

Vs.

1.The Commissioner,
Madurai Municipal Corporation,
Madurai.

2.The Assistant Engineer,
Madurai Municipal Corporation,
Zone-4, Madurai.

3.The Assistant Executive Engineer,
Madurai Municipal Corporation,
Zone-4, Madurai.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to disburse the bill amount for the done completed work including additional work by the petitioner in furtherance of the work order dated 02.02.2021 by considering the representation of the petitioner dated 06.08.2021

For Petitioner	: Mr.J.Anandkumar
For R1 to R3	: Mr.P.Athimoolapandian
	Standing Counsel

ORDER

The petitioner seeks a direction to the respondents to make payment in respect of a bill for additional work.

2.The petitioner states that he was awarded a contract in respect of work relating to the construction of a small bridge in Amaithisolai at Ward No.97, in Zone 4 by the Madurai Municipal Corporation. It is asserted that such work was duly completed in accordance with the work order. However, the petitioner asserts that additional work was required to be carried out for putting up a barrier wall. Extra concrete work was also required for which scaffolding had to be erected. The petitioner asserts that such additional work was carried out under instructions of the Engineer.



According to the petitioner, the value of such additional work is Rs.10,00,000/-. Therefore, after submitting a representation dated 05.08.2021 claiming payment towards additional work, the present writ petition is filed.

3.Mr.P.Athimoolapandian, learned Standing Counsel, accepts notice for all the respondents. He submits that a work order was issued to the petitioner on 02.02.2021. However, he states that it has to be examined as to whether the alleged construction of a barrier wall and extra concrete work actually qualify as additional work and whether any payments are required to be made as per the work order for such work. Without prejudice, he states that the petitioner's representation would be considered and disposed of on merits. On instructions, he submits that amounts due and payable in respect of the original scope of work were paid.

4.The present writ petition concerns a construction contract and the alleged additional work carried out by the petitioner in relation thereto. Therefore, the first question that would arise is whether such work constitutes additional work as per the relevant contract and work order. Even if it constitutes additional work, the next question would be the amount payable in respect of such work. Ordinarily, construction contracts contain provisions relating to additional work, including the price to be paid in respect thereof and the procedures relating thereto. All these aspects should be examined by the respondents while considering the petitioner's representation. In the event the respondents conclude that additional work was executed and that payments are liable to be made in respect thereof, it is open to the respondents to make such payment. On the other hand, if there are disputes as to whether such work constitutes additional work or in relation to the amounts claimed in respect thereof, such disputed questions should be agitated before the jurisdictional civil court.

5.Subject to the above observations but without entering any findings on the merits of the matter, W.P.(MD).No.18042 of 2021 is disposed of by directing the respondents to consider the petitioner's representation dated 06.08.2021 and dispose of the same by a reasoned order within a period of three (3) months from the date of receipt of a copy of this order. However, there will be no order as to costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sn/sji

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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.

To

- 1.The Commissioner,
Madurai Municipal Corporation,
Madurai.
- 2.The Assistant Engineer,
Madurai Municipal Corporation,
Zone-4, Madurai.
- 3.The Assistant Executive Engineer,
Madurai Municipal Corporation,
Zone-4, Madurai.

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