



Writ Petition No.9562 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: **23.11.2022**

C O R A M

THE HONOURABLE Mr.JUSTICE N. SATHISH KUMAR

Writ Petition No.9562 of 2017 &

W,M.P.No.10507 of 2017

M/s.Ulundurpet Expressways Pvt. Ltd.,
[Formerly known as GMR Ulundurpet,
Expressways Pvt Ltd]
1220, 7th Floor Swastik Chamber
Sion Trombay, Chembur, Mumbai.

... Petitioner

Vs

1. The Secretary [Transport],
Government of Tamil Nadu,
St. John's building Beach Road,
Chennai – 600 09.
 2. The Managing Director,
Tamil Nadu State Transport Corporation [Kumbakonam] Limited,
27, New Railway Station Road,
Kumbakonam 612 001.
 3. The Managing Director,
Tamil Nadu State Transport Corporation [Villupuam] Limited,
Villupuram 605 602.
 4. The Managing Director,
Tamil Nadu State Transport Corporation [Madurai] Limited,
Bypass Road, Madurai 625 010.
- ... Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to forthwith pay the arrears amounting to Rs.12,80,77,874/- [Rupees Twelve Crores Eighty Lakhs Seventy Seven Thousand Eight Hundred and Seventy Four only] together with interest at 18% per annum from 23.03.2013 till the date of payment on account of pending dues towards toll fees to the petitioner.

For Petitioner ... Mr.Mr.Rahul Balaji

For respondents ... Mr.P.Sathish, Addl. Govt. Pleader – R1

Mr.M.Ashwin – R2 to R4

ORDER

This Writ Petition has been filed to direct the respondents to forthwith pay the arrears amounting to Rs.12,80,77,874/- [Rupees Twelve Crores Eighty Lakhs Seventy Seven Thousand Eight Hundred and Seventy Four only] together with interest at 18% per annum from 23.03.2013 till the date of payment on account of pending dues towards toll fees to the petitioner.

2. The case of the petitioner is that the petitioner had entered into a Concession Agreement dated 19.04.2006 with National Highways Authority of India for implementing the project. It is their further case that several buses



belonging to the deptos of the respondents were plying on the project road frequently. In order to avail the benefits of concessional rates as offered vide fee notification dated 26.03.2009 and amended from time to time, the respondents initially took monthly passes for certain buses plying on the road. However, it was subsequently observed by the petitioner the respondents were plying different buses other than those were enrolled under monthly passes and even the registered buses were plying and making more number of trips than what was permitted by the said passes. It is the further contention of the petitioner that inspite of consistent reminders, the respondents had failed to release the overdue amount. Hence, the present Writ Petition.

3. The learned counsel appearing for the first and second respondents though submitted that the Writ Petition is not maintainable for recovery of money, it is submitted that as per their records due will be around few crores and not as claimed by the petitioner.

4. The Division Bench of this Court in W.P.No.16218 of 2013, by an Order 19.03.2015, directed the respondents to pay the arrears to the toll collectors as per the determined rates as per National Highways Fee



[Determination of Rates and Collection] Rules, 2008. Pursuant to the same, some cheques have been issued to the petitioner before the Court. The exemption plea taken by the respondents has been rejected by the National Authority. Similarly, the Writ Petition in W.P.No.27064 of 2014 has been disposed of with a direction to clear the amounts in terms of the Writ Petitions in W.P.No.16218 and 21637 of 2013. The present Writ Petition filed by the petitioner is similarly placed for recovery of the sum due.

5. After some arguments, both sides submitted that since it is only recovery of money, accounts have to be reconciled and the same will be made before the mediator appointed by this Court.

6. With the consent of both sides, that

i] Mr.N.Kirubakaran, Judge [Retd.], High Court, Madras, residing at No.36, 2nd Cross Street, Rayala Nagar, Ramapuram, Chennai – 600 089, Mobile No.9445025454 is appointed as a Mediator to mediate the matter.

ii] the both the petitioner and the respondents shall produce their accounts and arrive at a settlement and the



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Mediator is requested to conclude mediation proceedings within a period of four months.

iii] the learned Mediator may fix his fees and the same shall be borne by the parties equally.

7. Accordingly, this Writ Petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

23.11.2022

Index : Yes / No

Internet: Yes

Speaking/non speaking order

vrc

Note : The registry is directed to communicate a copy of this Order to
Honourable Justice N.Kribakaran,
Retired Judge of this Court

To

1. Mr.N.Kirubakaran, Judge [Retd.],
High Court, Madras,
No.36, 2nd Cross Street,
Rayala Nagar, Ramapuram,
Chennai – 600 089. Mobile No.9445025454



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N. SATHISH KUMAR, J

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