

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2022

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.NO.34746 OF 2019

M/s.Micromax Systems Private Ltd.,
Rep. by P.V.Kannan
Managing Director,
Having office at Malaya House,
10, Williams Road,
Cantonment, Trichy 620 001.

...Petitioner

Vs.

1.The Managing Director,
M/s.Chennai Metro Rail Ltd.,
6th Floor, Admin Building,
Chennai Metro Rail Ltd, - Depot.
Poonamalle High Road,
Opposite, Daniel Thomas School,
Koyembedu, Chennai 600 017.

2.The Project Manager,
M/s. General Consultants,
6th Floor, Admin Building,
Chennai Metro Rail Ltd, - Depot.
Poonamalle High Road,
Opposite, Daniel Thomas School,
Koyembedu, Chennai 600 017.

3.Tiruchitambalam Projects Ltd.,
Rep. by its Managing Director,
Mr.S.K.Ravimaniyam having Registered
Office at, 126 K.P. Road, Chettikulam Junction,
Nagercoil, TamilNadu 629 001 and
Corporate Office at,
50 Baghirathi Ambal Street,
Bazullah Road, T.Nagar, Chennai 17.

...Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent to consider the petitioner's representation dated 05.07.2018 for release of the sum of Rs.1,33,21,470/- along with 12% interest, against the work completed by the petitioner's company in Chennai Metro Rail Project Chennai, within time stipulated.

For Petitioner : Mr.D.R.Arun Kumar
For Respondents : Mr.Jayesh B. Dolia, for RR1 & 2
Mr.SR.Mounaswamy Nathan, for R3

O R D E R

The petitioner seeks a Writ of Mandamus directing the Chennai Metro Rail Ltd., the first respondent herein, to make a payment of Rs.1,33,21,470/- along with 12% interest being the money due and payable by the third respondent in respect of electrical works that has been carried out by the petitioner as a contractor under the third respondent at the premises of Chennai Metro Rail Ltd.

2. I have my own doubts about the maintainability of this Writ Petition, which is in fact a suit for recovery of money filed under Article 226 of the Constitution of India. But this Writ Petition can be disposed of without going into the maintainability in view of what has been stated in para 10 of the counter affidavit filed by Chennai Metro Rail Ltd. Paragraph 10 of the counter affidavit reads as follows:

"10. I most respectfully state that as per the accounts of CMRL, a sum of Rs.3,87,95,695/- was payable to the 3rd respondent and the same was paid to the creditor Banker of 3rd respondent on 21.03.2019 pursuant to proceedings before the DRT-2 and as of today no amount remains payable from CMRL to the 3rd respondent."

Therefore, as on today Chennai Metro Rail Ltd., does not owe any money to the third respondent. Hence the petitioner, who is a sub contractor under the third respondent, cannot seek payment from the Chennai Metro Rail Ltd., whatever amounts that are due and payable under the contract have been paid over to the third respondent and the Banks that financed the third respondent, who have charge over the assets of the third respondent.

3. Hence this Writ Petition is dismissed without going into the question of maintainability. The petitioner will be at liberty to proceed against the third respondent. No costs.

Sd/-
Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

To

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+1cc to M/s.D.R.Arunkumar, Advocate Sr.No.45057

+1cc to M/s.Jayesh B. Dolia, Advocate Sr.No.45473

W.P.No. 34746 of 2019

PL(CO)
RVM(29/07/2022)