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W.A.No.1889 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2022

CORAM

**THE HONOURABLE MR.JUSTICE T.RAJA  
and  
THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU**

**W.A.No.1889/2019 and CMP.No.12800/2019**

1. The Managing Director,  
Tamil Nadu Water Supply and Drainage Board,  
31, Kamarajar Salai,  
Chepauk, Chennai-600 005.
2. The Superintending Engineer,  
TWAD Board,  
216, Arumugam Street,  
Periyar Circle,  
Thirunagar Colony,  
Erode-638 003.

... Appellants

-VS-

M/s.Raja Constructions  
rep. by its Partner  
Mr.S.N.Dhanasekar,  
No.240, Karur Road,  
Kangeyam-638 701,  
Erode District.

... Respondent

Writ Appeal filed under Clause 15 of Letters Patent against the order dated 06.12.2017 passed in W.P.No.9186 of 2012 by a learned Single Judge.



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For Appellants : Mr.S.Silambannan,  
Additional Advocate General  
assisted by  
Mrs.Shakila Banu

For Respondent : Mr.K.S.Viswanathan

### **JUDGMENT**

(Judgment of the Court was pronounced by **T.RAJA, J.**)

This Writ Appeal has been directed against the impugned order dated 06.12.2017 passed in W.P.No.9186 of 2012 in and by which the learned Single Judge while allowing the writ petition by setting aside the impugned order of the 1<sup>st</sup> appellant directed the 1<sup>st</sup> appellant to pass appropriate orders with regard to payment of interest payable to the writ petitioner/respondent herein, within a period of three months from the date of receipt of a copy of that order.

2. The crux of the issue raised in this Writ Appeal shows that the writ petitioner was awarded with a contract in the year 1993 by the Tamil Nadu Water Supply and Drainage Board (in short, 'the Board') in respect of laying and jointing of distribution system in Doddampalayam and 116 other habitations in Sathy and Bhavani Sagar Unions. As there was a dispute between the respondent and the appellant Board, as per the the terms of the agreement, the dispute was referred before the arbitration. A retired Judge of this Court was



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appointed as Arbitrator to adjudicate the dispute in O.P.No.605/1996.

On conclusion of the arbitration proceedings, the learned Judge passed an award dated 7.9.1999 for a sum of Rs.26,43,417/- in favour of the respondent herein. The appellant Board challenged the said award in O.P.No.459/2000 before this Court and by judgment dated 15.6.2006, learned Single Judge of this Court dismissed the said Original Petition. Aggrieved thereby, an appeal was filed in OSA.No.249/2008 in which the Division Bench of this Court while confirming the order passed by the learned Single Judge dismissed the appeal. However, the learned Division Bench has made certain arithmetical corrections and finally held that the respondent was entitled to Rs.23,18,074/- instead of original award of Rs.26,43,417/-. Against which, the appellant Board has filed a Special Leave Petition in S.L.P. (Civil) C.C.No.15360/2010 along with condone delay petition. However, the Supreme Court, while condoning the delay dismissed the SLP. Therefore, after dismissal of the SLP by the Supreme Court, the original award passed by the learned Arbitrator dated 7.9.1999 has become final.

3. On the basis of the above facts and circumstances of the case, the question that now arises for consideration is when the award amount of Rs.23,18,074/- alone was directed to be paid by the learned Arbitrator without fixing any rate of interest thereon, whether the



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appellant Board is liable to pay the interest at the rate of 18% p.a.

The respondent has also given a details of calculation which is extracted here under:

"DETAILS OF CALCULATION

Rs.

Date of Award – 07.09.1999

Award Amount

26,43,417.00

Less:

Amount as rectified and deducted by Hon'ble  
Division Bench in OSA.No.249/2008

3,25,343.00

Total Award Amount (Paid on 10/02/2011)

23,18,074.00

Interest due from 08/09/1999 till 10/02/2011  
(date of payment) calculated @ 18% p.a.  
(Total no. of days 4174)

47,71,548.92

Writ Petition filed in March 2012

I. Interest calculated @ 6% on the outstanding  
interest amount due viz.Rs.47,71,548.92 rounded  
off to Rs.47,71,549 (from 11/02/2011 to 12/09/2022)  
(Total No. of days 4231)

33,18,645.00

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II. Interest calculated @ 4% on the outstanding  
interest amount due viz. Rs.47,71,548.92 rounded  
off to Rs.47,71,549 (from 11/02/2011 to 12/09/2022)  
(Total No. of days 4231)

22,12,430.00"



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4. Learned Additional Advocate General appearing for the appellant Board also giving another calculation sheet submitted that the writ petitioner is not entitled to the amount mentioned in the details of calculation given by him.

5. The admitted case of both the parties can be seen from B.P.Ms.No.119, TWAD (Legal Cell) dated 21.12.2010. The relevant portion is given as under :

"Accordingly a detailed Agenda was placed before the Board to consider and authorize the competent authorities to settle the amount due to the firm M/s.Raja Constructions, Kangeyam in terms of the orders passed by the Hon'ble Supreme Court of India in its order dated 12.11.2010 confirming the orders dated 03.02.2009 passed in OSA.No.249 of 2008, as detailed below:

Hon'ble High Court Bench order dt:3.2.2009

passed in OSA 249/2008 : Rs.23,18,704/-

Cost of Arbitration fee as per

Arbitration Award to the claimant : Rs. 2,00,000/-

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Total : Rs.25,18,704/-



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The Board after careful consideration in its Resolution No.5.6 dated 15.12.2010 resolved as follows:

"To permit the Managing Director to authorize the payment of Rs.25,18,704/- (Rupees Twenty Five Lakhs Eighteen Thousand Seven Hundred and Four Only) to the firm M/s.Raja Constructions, Kangeyam and the expenditure may be booked under the Head of the Scheme concerned."

Accordingly, the Board directs the Managing Director to authorize the payment of Rs.25,18,704/- (Rupees Twenty Five Lakhs Eighteen Thousand Seven Hundred and Four Only) to the firm M/s.Raja Constructions, Kangeyam.

The Expenditure shall be booked under the head of the scheme concerned.

(By order of the Board)

Sd/Gagandeep Singh Bedi,  
Managing Director,  
TWAD Board, Chennai-5."



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Therefore, a sum of Rs.23,18,704/- shall be liable to be paid by the appellant Board. Admittedly, the said amount was the award amount fixed by the Arbitrator without fixing any rate of interest at 18% from 08.09.1999 till 10.02.2011 for a total number of days of 4174 which is worked out to Rs.47,71,548.92. The further claim made by the respondent herein for payment of interest on interest cannot be accepted.

6. In view of the above, while dismissing the Writ Appeal by confirming the order of the learned Single Judge dated 06.12.2017 passed in W.P.No.9186 of 2012, we hereby direct the appellant Board to pay the said amount of Rs.23,18,704/- (Rupees Twenty Three Lakhs Eighteen Thousand Seven Hundred and Four Only) along with interest, within a period of six months from the date of receipt of a copy of this order. However, it is made clear that this order cannot be treated as a precedent. No costs. Consequently, connected Miscellaneous Petition is also closed.

**(T.R.J.,)**

**(P.D.A.J.,)**

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**T.RAJA,J.  
AND  
P.D.AUDIKESAVALU, J.  
tsi**

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