



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.06.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P. (MD).No.12459 of 2011

S.Karuppiah (Died) ... Petitioner

2.B.Nadana Shankari

3.S.K.Ramkumar

4.K.Karthick

5.K.Rajashankar

... Proposed Petitioners

(Petitioner Nos.2 to 5 are substituted vide Court order, dated 09.06.2022 in W.M.P(MD)No.4824 of 2020 in W.P(MD)No.12459 of 2011)

Vs.

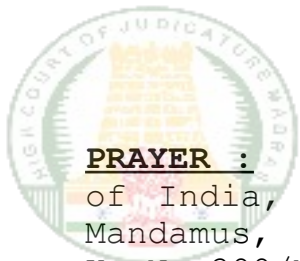
1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Public Works Department,
Fort St.George,
Chennai-600 009.

2.The Chief Engineer,
Water Resources Organisation,
Madurai Region,
Periyar Vaigai Basin Circle,
Public Works Department,
P.W.D.Complex, Tallakulam,
Madurai-625 002.

3.The Superintending Engineer,
Water Resources Organisation,
Periyar Vaigai Basin Circle,
Public Works Department,
Madurai-625 001.

4.The Executive Engineer,
Periyar Improvement Division No.VII,
Water Resources Organisation,
Public Works Department Complex,
Madurai-625 002.

... Respondents



PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order Ka.No.388/M/08/Ko.336/Va.5, dated 07.11.2008 passed by the third respondent and quash the same and consequently direct the respondents to make payment of Rs.1,25,00,000/- to the petitioner towards the cost of 1,00,000 cu.mt. of earth purchased for formation of embankment in execution of the work of "Formation of Main Canal including all cross masonry structures from L.S.12.25 Km to 16.30 Km" under the Scheme of 'Providing Irrigation facilities to 58 Villages in Usilampatti Taluk of Madurai District' along with interest at 18% per annum from the date of completion of work to the date of payment of the above amount, within a time limit to be fixed by this Court.

For Petitioners : Mr.T.Sakthikumaran

For Respondents : Mr.N.Muthuvijayan
Special Government Pleader

ORDER

The present writ petition has been filed challenging an order passed by the third respondent herein under which the request of the petitioner for payment of amount for the additional work done by him at an enhanced rate has been rejected.

2. It is the contention of the petitioner that a work order was issued to him for construction of the main channel nedukai 12.25 Km to 16.30 Kms. However, while the work was in progress, by a letter, dated 22.06.2007, the Executive Engineer had sent a letter to the District Collector on 22.06.2007 to identify a place within 5 Km radius, so that, the contractor could collect the mud for completion of the project. Since the said request could not be entertained by the District Collector, according to the petitioner he had to incur more expenses for carrying mud from a distant place. For the said additional expenses, the writ petitioner made a claim to the third respondent which was rejected under the impugned order.

3. Under similar circumstances, while carrying out a different project, the petitioner suffered a similar order. He challenged the same in W.P.No.8687 of 2009 before this Court by an order, dated 06.01.2010. This Court had directed the contractual amount to be paid to the writ petitioner. However, the request for payment of additional amount at an enhanced rate was rejected by this Court and a liberty was given to the writ petitioner to approach the competent forum to ventilate his grievances.

4. The learned Special Government Pleader appearing for the respondents pointed out that he has not done any additional work.



Whatever work that has been completed by the writ petitioner is as per the work order and the petitioner is not entitled to any additional amount and that too at an enhanced rate which would be quite contrary to the work order issued to the writ petitioner. In view of the submission made by either parties, this Court finds that there is a factual dispute whether any additional work at all was done by the writ petitioner and if so whether the writ petitioner would be entitled to receive an amount at an enhanced rate. This factual dispute could not be decided in the present writ petition. Hence, this writ petition is dismissed with liberty to the writ petitioner to approach appropriate forum to ventilate his grievances.

5. With the above said observations, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar(Records)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)

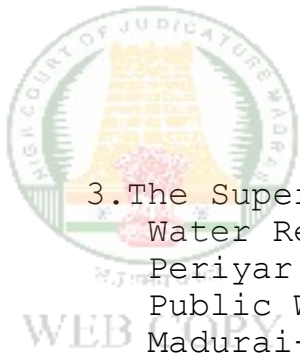
btr

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 Secretary to Government,
The State of Tamil Nadu,
Public Works Department,
Fort St.George,
Chennai-600 009.
- 2.The Chief Engineer,
Water Resources Organisation,
Madurai Region,
Periyar Vaigai Basin Circle,
Public Works Department,
P.W.D.Complex, Tallakulam,
Madurai-625 002.



3.The Superintending Engineer,
Water Resources Organisation,
Periyar Vaigai Basin Circle,
Public Works Department,
Madurai-625 001.

4.The Executive Engineer,
Periyar Improvement Division No.VII,
Water Resources Organisation,
Public Works Department Complex,
Madurai-625 002.

+1 CC to M/s.A. THIRUMURTHY, Advocate (SR-25962[F] dated 15/06/2022

+1 CC to M/s.SPL.GP (SR-26126[F] dated 16/06/2022)

Order made in
W.P.(MD).No.12459 of 2011
15.06.2022

kg(CO)
TR(24.06.2022) 4P 7C