



W.P.(MD).No.27419 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.12.2022

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.(MD)No.27419 of 2022

and

W.M.P.(MD).No.21517 of 2022

Palanikumar

... Petitioner

vs.

- 1.The District Collector /Chairman,
District Rural Development Agency,
Collectorate Buildings,
Madurai -20.
- 2.The Project Officer,
District Rural Development Agency,
Collectorate Buildings,
Madurai -20.
- 3.The Executive Officer,
Thirumangalam Municipality,
Thirumangalam,
Madurai.
- 4.The Assistant Commissioner of Police,
Thirupparankundram Division,
Madurai City,
Madurai -5.



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5.M.Sakthivel

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... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing the respondents 1 to 3 from disbursing the bill amount payable to the account of the fifth respondent for the contract work completed for the period from 2018 to October 2022 till the completion of police enquiry pending before the fourth respondent.

For Petitioner	: Mr.R.Aravindan
For R1 & R2	: Mr.D.Sadiq Raja Additional Government Pleader
For R3	: Mr.E.Mareesh Kumar
For R4	: Mr.B.Thanga Aravindh Government Advocate (Crl.side)

ORDER

This Writ Petition has been filed for issuance of a Writ of Mandamus, forbearing the respondents 1 to 3 from disbursing the bill amount payable to the account of the fifth respondent for the contract work completed for the period from 2018 to October 2022 till the completion of police enquiry pending before the fourth respondent.



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2. The case of the petitioner is that he is a contractor by profession and doing Government contract works with various Government Departments and Organisations. Likewise the fifth respondent is also a registered contractor and doing money lending business. As per the undertaking, the fifth respondent will invest the money for the completion of the contract work and used to take the money invested along with interest at the rate of 36% and after settling the other incidental expenses, the remaining balance would be paid to the petitioner out of the total bill amount received by the fifth respondent. On that basis, the petitioner has done number of contract works with various Departments particularly with the respondents 1 to 3 for the period commencing from 2018 till the end of October 2022. From the month of February 2022, the rate of interest payable for the money invested by the fifth respondent has been fixed at 30% per annum instead of 36%.

3. Since the fifth respondent has not chosen to pay anything for the petitioner for the work done by him as sub-contractor on behalf of the



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fifth respondent, he made a request to the fifth respondent to stop the dealings and to settle the dues payable to him. As per the calculation, a total sum of Rs.6,06,00,00/- was invested by the fifth respondent for completion of the contract work and so far he has received a sum of Rs. 18,94,54,442/-, out of the sum paid on completion of the work and still a sum of Rs.5,48,62,570/- is pending with the second and third respondents payable for the works completed and the caution deposit pertaining to the tender. The fifth respondent with ulterior motive has refused to pay any amount to the petitioner. Therefore, he has made a complaint before the police on 15.09.2022. The fourth respondent has conducted an enquiry and the fifth respondent has admitted his liability to pay the amount to the petitioner for the successful completion of the contract work. The enquiry before the fourth respondent is till pending and the fifth respondent has attempted to receive the amount payable by the respondents 1 to 3 without the petitioner's knowledge and before conclusion of the police enquiry, to avoid any payment payable to him. Hence, the petitioner has filed the present writ petition.



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4. Heard the learned counsel for the petitioner, learned Additional Government Pleader appearing for the respondents 1 and 2, learned Government Advocate (Crl.side) appearing for the fourth respondent and the learned counsel for the fifth respondent

5. The petitioner has stated that he has done number of contract works with various Departments, particularly with the respondents 1 to 3 for the period commencing from 2018 till the end of October 2022. The fifth respondent, who is the professional financier, doing money lending business for various third parties and he has taken the contract work and the petitioner was doing the contract work under the name of the fifth respondent. Now, the petitioner's case is that the fifth respondent has not chosen to pay the amount, which was spent by the petitioner for executing the contract work. If the petitioner is aggrieved, this is not the forum for contesting and he has to approach the competent forum for redressing his grievance. The petitioner cannot insist the Court to order notice to the fifth respondent as the petitioner is not the contractor



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directly at any nexus with the Department and he is only a sub-contractor to the fifth respondent and no document has been produced to show that whether the Department has got anything to do with the said petitioner. Hence, this Writ Petition is disposed of, giving liberty to the petitioner to work out the remedy, in the manner known to law. No costs. Consequently, the connected Miscellaneous Petition is closed.

02.12.2022

Index:Yes/No
Internet:Yes/No

akv

To

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V.BHAVANI SUBBAROYAN,J.

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