



W.A.No.1618 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P. B.BALAJI

W.A.No.1618 of 2015 and

M.P.No.1 of 2015

N.Rajagopalan

... Appellant

Vs.

1. The Managing Director,
Tamil Nadu Water Supply and Drainage Board,
No.31, Kamarajar Salai, Chepauk,
Chennai 600 005.
2. The Chief Engineer, TWAD Board,
Western, Region, 26, Corporation Shopping Complex,
Avinashi Road, Coimbatore-16.
3. The Superintending Engineer, TWAD,
No.82, 3rd Street, TATABAD,
Coimbatore, Nilgiris Circle, Coimbatore-12.
4. The Executive Engineer, TWAD,
HADP Division, 80-B, Glunrock,
Uthagamandalam.



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5. The Director,
Directorate of Vigilance & Anti Corruption,
No.293, MKN Road, Alandur,
Chennai 600 016.

(fifth respondent impleaded, as per the order of this
court in CMP No.17171 of 2023 in W.A.No.1618 of 2015
dated 02.08.2023) ... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the
order passed by this Court in W.P.No.7988/1999 dated 31.03.2015.

For Appellant : Mrs.M.Sneha
For Respondents : Mr.Krishna Ravindran

JUDGEMENT

(Judgment of the Court was delivered by D.KRISHNAKUMAR, J.)

This Intra Court Appeal has been filed by the writ petitioner as
against the order passed by this Court in W.P.No.7988/1999 dated
31.03.2015, wherein, the prayer to direct the respondents to pay the bill
amounts along with interest was dismissed.



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2. The brief facts leading to the filing of the writ appeal is as follows.

The appellant/writ petitioner was a successful bidder in the tender issued by the TWAD Board, HADP Division, Udhagamandalam dated 04.09.1986 for laying and jointing of CI pipes at Ooty W.S.I.S. The appellant completed the work and the fourth respondent had issued completion certificate also on 12.08.1988. However, the respondents had paid only Rs.55,000/- out of Rs.1,00,000/- and had not paid the balance bill amount of Rs.45,000/- to be paid to the appellant, despite several requests and follow-up made by him. In such circumstances, the appellant received a notice dated 09.12.1991 from the fourth respondent to appear for enquiry by the Vigilance and Anti corruption Officer on 16.12.1991 and 17.12.1991 in respect of the works executed by him and he had also cooperated for enquiry. Though the appellant had completed the contract work on executing proper manner by borrowing money from the third parties on interest, the respondents have not settled the due amount. The respondents have to pay the bill amount of Rs.45,000/- along with Rs.13,875/- towards leveling charges; Rs.4,290/- towards security deposit; Rs.5,000/- towards



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5% on bill amount with held by the fourth respondent; and Rs.2,000/- towards sales tax amount totalling to Rs.98,000/- with interest at 24% per annum. Hence he file the writ petition. The Writ Court has dismissed the writ petition holding that the petitioner had approached the court belatedly and also observed that for recovering money, the petitioner has to approach the civil court. Assailing the above said order, the writ petitioner has filed the present writ appeal.

3. The learned counsel for the appellant submitted that the appellant had approached the authorities concerned seeking to pay the balance bill amount and other amounts payable to him on several times, however, the respondents have not responded for the same. Then only, the appellant has filed the writ petition. He also drew the attention of this Court to the counter affidavit filed in the writ petition by the Chief Engineer TWAD Board, Avinashi Road, Coimbatore /second respondent herein, wherein it was stated that the contractor was called upon for vigilance enquiry on 27.09.1989, 16.12.1991 and 17.12.1991 regarding the work and final report of the vigilance department has to be filed, which causes the delay in settling the



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final bill to the petitioner/ appellant herein. Though the respondents had admitted the claim amount and ready and willing to refund the same on finalization of the Vigilance and Anti Corruption Case, the writ Court has not considered the above aspect and dismissed the writ petition. Hence, he prayed to set aside the order passed by the learned Single Judge.

4. With regard to the above statement made in the counter affidavit and also to know about the status of the above said Vigilance and Anti Corruption case, the fifth respondent viz. Vigilance and Anti Corruption Department has been impleaded as fifth respondent in the appeal.

5. The fifth respondent has filed a status report dated 01.08.2023 before this Court and it is worthwhile to extract the relevant portion of the report, which reads as follows.

" I submit that the respondent No.2, Chief Engineer stated in his counter in para 7(g) about the notice issued to the appellant/petitioner for the V & AC enquiry dated 27.09.1989, 16.12.1991 and 17.12.1991 is not correct. But the summon were issued to the appellant/ petitioner by the Executive Engineer, TWAD Board, H.A.D.P.division, Udthagamandalam on 18.09.1989 and



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09.12.1991.

I submit that as far as letter No.89/conf/89/VC dated 18.09.1989 is concerned, the said summon was issued to the appellant/petitioner by the Executive Engineer (TWAD), HADP Division, Udhagamandalam for taking part in the super check in connection with the works in Udhagai Rural Water Supply improvement Scheme on 27.09.1989. On careful perusal of the case, date and the same was not produced as a prosecution relying document in the vigilance case and it stands pending before the sub court, the Nilgiris against the accused Tr.Somakumaran.

I submit that the meticulous scrutiny of the case diary file and case records submitted in the court reveals that the M-book in connection with the works carried out by the appellant/petitioner were not seized at the time of the investigation.

I submit that as far as the letter dated 09.12.1991, summons to the witness of the above appellant/ petitioner was issued for appearing in the enquiry conducted by TWAD Board, HADP Division on 16.12.1991 and 17.12.1991. The said summons was issued to the above appellant/ petitioner by the Executive Engineer, TWAD Board, HADP Division, Udhagamandalam for the Departmental enquiry and not for the vigilance enquiry. Hence, there is no statement available in the case records showing his attendance.

It is further reported that the work carried out by the writ appellant/ petitioner is not the subject matter of spl.C.C.No.29/2015 since the case of the Vigilance and Anti Corruption is for the malpractices arose in laying HDPE pipes. The appellant/petitioner is not the party or cited as witness in Spl.C.C.No.29/2015.



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The above status report clearly stated that the appellant is not a party to the above said criminal case. However, without verifying the facts from the authorities concerned, the respondent has filed the counter affidavit in the writ petition simply saying that final report has not been filed and therefore, they are not able to settle the amount to the appellant. Therefore, the above statement made by the second respondent in the counter affidavit is rejected.

6. Inview of the above discussion, we are of the considered view that the appellant is entitled to get the amount, as prayed for in the writ petition along with interest at at the rate of 12% p.a. from the date of filing the writ petition till the date of payment. Further, inview of the above act of the respondents, the appellant has suffered a lot and hence, we are of the opinion that it can be compensated by way of payment of costs by the respondents.

7. Accordingly, it is ordered as follows.

i) The order passed by the writ court in W.P.No.7988/1999 dated



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31.03.2015 is set aside.

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ii) the respondent concerned is directed to pay the amount of Rs.1,68,165/- along with interest at the rate of 12% per annum from the date of filing the writ petition till the date of payment to the appellant/ writ petitioner, within a period of twelve weeks from the date of receipt of a copy of this order.

iii) The first respondent is directed to pay a sum of Rs.25,000/- (Rupees twenty five thousand only) as costs to the appellant, forth with.

8. With the above direction, this writ appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(D.K.K.J.)

(P.B.B.J.)

02.08.2023

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Internet: Yes/No

Index : Yes/No

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