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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

WP.Nos.19319, 19320, 23167, 23168 , 23168 of 2013 & 4268 of 2014

W.P.No.19319 of 2013

M/s.PSVCPL-BBIPL-[JV],
Represented by its Authorised Signatory,
M.V.Badarinarayana
Plot 15, Bungalow No.10, Street No.1A,
CZECH Colony, near State Bank of Hyderabad,
Sanath Nagar, Hyderabad – 500 018.

... Petitioner

Vs

1. The Salem City Municipal Corporation,
represented by its Commissioner, Salem.
2. The Commissioner,
Salem City Municipal Corporation, Salem.
3. The Senior Manager,
UCO Bank, Road No.10,
Banjara Hills, Hyderabad – 500 034.

... Respondents

Prayer:- Writ Petition filed under the Article 226 of Constitution of India,
to issue a Writ of Certiorarified Mandamus to call for the records of the
second respondent in Roc.No.15/2009-10/SS1, Package-1 dated



15.05.2013 followed by ROC No.15/2009-10SS1 Package -1 dated 08.07.2013 and quash the same and direct the respondents 1 and 2 to allow the petitioner to continue to execute the contract in Package 1 for providing Under Ground Sewerage Scheme [Collection] System by forbearing the respondent 1 and 2 from encashing the bank Guarantee for Rs.77,54,627/- with the third respondent herein and releasing all the funds to the petitioner which are pending.

Petitioner : Mr.A.Kandhan Duraisami
for Muthumani Doraisamy

Respondents : Ms.N.Devi
Standing Counsel – R1 & R2

: No appearance – R3

ORDER

This Writ Petition has been filed to quash the proceedings of the second respondent in Roc.No.15/2009-10/SS1, Package-1 dated 15.05.2013 followed by ROC No.15/2009-10SS1 Package -1 dated 08.07.2013 and quash the same and direct the respondents 1 and 2 to allow the petitioner to continue to execute the contract in Package 1 for providing Under Ground Sewerage Scheme [Collection] System by



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forbearing the respondent 1 and 2 from encashing the bank Guarantee for Rs.77,54,627/- with the third respondent herein and releasing all the funds to the petitioner which are pending.

2. These Writ petitions have been filed mainly challenging the Order of cancellation of the contract and direction has also been sought to allot the work. The learned counsel appearing for the respondent brought to the notice of this Court the Order passed in batch of Writ Petitions in W.P.No.29223 and 29224 of 2013 dated 20.08.2020, wherein this Court has passed the following Order :

“5. Pending the writ petitions there was a direction from this Court to the Corporation also to settle the dues to the petitioners for the work done. It is also represented now by the learned counsel for the petitioners that the said order was complied with and subsequent to the filing of these writ petitions, the works itself were given to another contractor. Since the works were entrusted to the subsequent contractor, the question of reconsideration of the representation does not arise.

6. In view of the above, these writ petitions are disposed of. No costs.”

3. It is not disputed by the learned counsel appearing for the



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petitioner that the work has been allotted to the subsequent contractor and work has been completed. Though the prayer sought in the Writ Petitions have become infructuous, since the petitioner has not received the amount for the work carried out by the petitioner, he may agitate the same in appropriate proceedings, since the contract also provides for arbitration.

4. Accordingly, these Writ Petitions are dismissed as infructuous. It is well open to the petitioner to initiate arbitration proceedings as per the contract. No costs.

03.01.2023

vrc

To

1. The Salem City Municipal Corporation,
represented by its Commissioner, Salem.
2. The Commissioner,
Salem City Municipal Corporation, Salem.
3. The Senior Manager,
UCO Bank, Road No.10,
Banjara Hills, Hyderabad – 500 034.



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W.P.Nos.19319, 19320, 23167, 23168 of 2013

& W.P.No.4268 of 2014

N.SATHISH KUMAR, J.

These Writ Petitions have been listed today at the instance of the learned counsel appearing for the petitioners under the caption 'For being mentioned'.

2. The learned counsel appearing for the petitioner submitted that certain facts have not been brought to the notice of this Court while disposing these Writ Petitions. According to him, the bank guarantee Ordered to be kept alive is still in force and the bank guarantee has been renewed till now. Hence, he seeks a direction to the respondent from taking any action to encash the bank guarantee for a period of one month till he moves before the arbitrator.

3, Hence, the following paragraph shall be included in the paragraph No.4 after 'No costs.'

“The respondent is directed not to encash the bank guarantee for a period of one month. Thereafter, it is well open to the petitioner to approach the Arbitral Tribunal or the authorities concerned for any interim protection.”



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and the registry shall incorporate above and issue fresh Order copies to the parties concerned.

12.01.2023

W.P.Nos.19319, 19320, 23167, 23168 of 2013

& W.P.No.4268 of 2014



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