IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

WA No.395 of 2023

1.Tamil Nadu Water Supply & Drainage Board,
No.31, kamarajar Salai, Chepauk,
rep. By its Managing Director,
Chennai 600005

2.The Chief Engineer,
Tamil Nadu Water Supply & Drainage Board,
Coimbatore

3.The Executive Engineer,
Tamil Nadu Water Supply & Drainage Board,
RWS Division, No.175-A,
Shola House, Udagamandalam : Appellants

versus

S.Sengodan : Respondent

Prayer: Writ appeal filed under Clause 15 of the Letters Patent against the order dated 06.04.2022 in WP No.7308 of 2019.

For the Appellants : Mr.A.Abdul Hameed,
for Ms.S.Mekhala

For the Respondent : Mr.M.Rajasekar

JUDGMENT

(Made by the Hon'ble Chief Justice)

The appellants assail the order of the learned singe Judge dated 06.04.2022 in WP No.7308 of 2019.

2. The present respondent had filed the writ petition seeking payment of interest for the delayed payment. The original writ petitioner was issued with work order by the appellant/Tamil Nadu Water Supply and Drainage Board (hereinafter referred to as 'the Board'). The work was completed on 31.03.2011. The responsibility of the respondent/original writ petitioner for maintenance came to an end on 31.03.2012. The present respondent/original writ petitioner submitted bills to the Board. The Executive Engineer of the Board was required to scrutinize and settle the bills within 15 days. According to the respondent/original writ petitioner, the bills were settled over a span of six years, from 2012 to 2018. For the delay in the settlement and the payment, the respondent/original writ petitioner claimed interest.

3. The learned Single Judge set aside the order of the appellant/ Board denying interest to the respondent/writ petitioner and directed interest at the rate of 6% p.a. from the date of bill till the date of computation. The said order is assailed in the present writ appeal.

4. It is not in dispute that the final bill was sanctioned on 25.09.2012. It is also admitted by the present appellants that part-payment pursuant to the said bill, was made on 06.12.2013 and 28.08.2014. According to the learned counsel for the appellants, in the year 2018, refund was made of the amount; whereas according to the original writ petitioner, penalty was imposed upon the appellants , that was set aside and an amount of Rs.1,40,000/- (Rupees One Lakh and Forty Thousand only) was paid in the year 2018. However, it is not disputed that an amount Rs.1,40,000/- (Rupees One Lakh and Forty Thousand only) was paid in the year 2018.

5. The learned counsel for the appellant/Board submits that the learned Single Judge failed to consider that the claim was barred by limitation. The Court had also failed to consider that the writ petition seeking Mandamus for payment of interest is not maintainable. The

payment of interest would be subject to the provisions of the Interest Act.

6. To buttress his submission that for payment of interest the writ petition would not be maintainable, the learned counsel for the appellants relies upon the judgment of the Division Bench of the Bombay High Court in the case of *Shri Balaji Automobiles vs. Union of India, (2002(2) Mh.L.J. 261).*

7. According to the learned counsel for the respondent/writ petitioner, the last payment was made in the year 2018 and as such, the question of limitation does not arise. He submits that the writ petition was maintainable, as the appellant/Board has negated the claim of the respondent/writ petitioner for interest and the same was challenged before the learned Single Judge.

8. The question of limitation may not be an issue inasmuch as part payments were made by the appellants up to 28.8.2014, and again amount was paid in the year 2018 with regard to the same contract.

9. In view of the same, the question of limitation would not be an issue.

10. The next issue would be about the payment of interest. Interest would be liable to be paid even referring to the statute i.e. the Interest Act, 1978.

11. Section 3(1)(a) of the Interest Act provides that interest could be allowed to the person entitled to the debt or damages or to the person making such claim, at a rate not exceeding the current rate of interest, for the whole or part of the following period, that is to say,- (a) if the proceedings relate to a debt payable by virtue of a written instrument at a certain time, then, from the date when the debt is payable to the date of institution of the proceedings.

12. In the present case, payment to the respondent/writ petitioner was certainly a debt. The learned single Judge has awarded only 6% rate of interest. The same would be less than the highest of the maximum rate at which interest may be paid on different classes

of deposits other than those maintained in service account by different classes of scheduled bank in accordance with the directions given or issued to the banking companies generally by the Reserve Bank of India, under the provisions of the Banking Regulation Act.

13. Further, the appellant/Board is an instrumentality of the State. The instrumentality of the State has to be a model litigant. The respondent/ writ petitioner was claiming interest pursuant to a right which can be referable to a statute i.e. the Interest Act, 1978.

14. In view of the aforesaid, there is no case for interference with the order of the learned Single Judge. The writ appeal is dismissed. There will be no order as to costs. Consequently, CMP No.3762 of 2023 is closed.

(S.V.G., CJ.) **(P.D.A., J.)**
08.09.2023

Index : Yes/No
Neutral Citation : Yes/No
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THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKESAVALU, J.

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