



WEB COPY



W.M.P.No.27032 of 2023

IN

W.P.No.22206 of 2021

M.DHANDAPANI, J.

This Petition has been filed seeking to modification of the order dated 20.01.2022 passed by this Court in W.P.No.22206 of 2022 pending arbitral proceedings.

2. It is the case of the petitioner that since the respondent agency had not completed the contract work within the stipulated period as per the agreement dated 05.02.2019 entered into between the petitioner and the respondent, the said contract was terminated vide order dated 21.09.2021. As against the said termination, a Writ Petition was filed before this Court in W.P.No.22206 of 2021 wherein this Court vide order dated 20.01.2022 had directed the petitioner to appoint an arbitrator with regard to the termination of said Contract, pursuant to which an arbitrator was appointed and accordingly, the arbitration proceedings were initiated and the same is pending. However, till date, the project work has not been completed. Hence, the petitioner has come up with this petition seeking permission of this Court to complete the project work through some other agency.



WEB COPY

3. Learned Additional Government Pleader (P) appearing for the Petitioners would submit that the respondent has abruptly stopped the contract work from 06.09.2021 and only 67% of the work has been completed. The petitioner despite having incurred huge sums of money, the construction which was proposed to be completed has not been completed on time. Since, it would take a considerable time conclusion of arbitral proceedings, this Court may permit the petitioners to complete the balance project through some other agency. Accordingly, she prayed for allowing this Petition.

4. Per Contra, learned counsel appearing for the respondent herein would submit that if the relief sought for in this Writ Petition has been granted in favour of the petitioner, the respondent will be greatly prejudiced. Hence, this Court may extend the time limit for completion of the remaining project work.

5. Heard the learned counsel appearing on either side.

6. It is seen that the contract agreement has been entered in the year 2019 and as per the said agreement, the project work should have been completed within a period of twelve months from the date of agreement. However, till date, the contract work has not been completed. Almost a period of four years have



passed since the date of entering into the contract. It is seen that as per the directions of this Court, arbitral proceedings were taken up before the arbitral tribunal. Pending arbitral proceedings, the present petition has been filed.

7. Considering the facts and circumstances of the case, this Court feels that it would not be in the interest of justice to grant further extension of time for completing the remaining project work as the respondent had failed to complete the work within the stipulated time. The respondent is bound to execute and complete the contract within the time stipulated in the agreement. Further, the respondent, on the one hand cannot seek enforcement of arbitral proceedings and on the other hand seek extension of time for completing the project, which cannot be permitted. The balance of convenience is purely in favour of the petitioner and, hence, this Court is inclined to grant liberty to the petitioners to call for fresh tenders with regard to completion of remaining 33% of the said project work.

8. Accordingly, this Miscellaneous Petition stands disposed of in the above terms.

26.09.2023

NHS



WEB COPY



M.DHANDAPANI, J.

NHS

W.M.P.No.27032 of 2023

IN

W.P.No.22206 of 2021

26.09.2023