



W.P(MD)No.3126 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED :16.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.3126 of 2023

and

W.M.P.(MD)Nos.2905 and 2907 of 2023

Sri Akshai

... Petitioner

Vs.

- 1.The National Highways,
Authority of India,
G-5 & 6, Sector – 10, Dwarka,
New Delhi – 110 0075.
- 2.The Regional Officer,
National Highways Authority of India,
Regional Office, Madurai,
2nd & 3rd Floor, Vijay Krishnan Plaza,
No.1, Lake Area, Melur Main Road,
Mattuthavani, Madurai – 625 007.
- 3.The Project Director,
National Highway Authority of India,
No.1, 2nd Floor, Subramaniapuram 3rd Street,
Karaikudi, Sivagangai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records in connection with the impugned order passed by the 3rd respondent in



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NHAI/PIU/Karaikudi/11033/Toll Plaza/T-P/2022/142 dated 09.02.2023 and quash the same as illegal and consequently directing 3rd the respondent to replace the Cash Performance Security of Rs.53,49,000/- deposited by M/s.Sri Akshai for the Contract Agreement dated 08.08.2022 for Shenbagampettai Toll Plaza.

For Petitioner : Mr.S.Sarvagan Prabhu

ORDER

Heard the learned counsel for the writ petitioner.

2.The petitioner was engaged as an agent for user fee collection for the petition mentioned toll plaza by NHAI. Dispute has arisen between the parties. The petitioner states that cash performance security has already been invoked by the respondents and the petitioner has been called upon to furnish fresh cash performance security. Such matters cannot be adjudicated in writ jurisdiction. Factual aspects are involved. The petitioner after all is having a commercial relationship with NHAI. Therefore, the petitioner has to avail the common law remedy.



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3. Granting liberty to the petitioner to move the jurisdictional Civil Court, the writ petition is dismissed *in limine* at the admission stage itself without notice to the respondents. I make it clear that I have not gone into the merits of the matter. All the contentions of the writ petitioner are left open. If the petitioner succeeds in the civil suit, certainly he will get back the money whatever he lost probably with interest also. No costs. Consequently, connected miscellaneous petitions are closed.

16.02.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

ias

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