



WMP(MD) No.3552 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Tuesday, the Eighteenth day of April Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

WMP(MD) No.3552 of 2019

IN

WP(MD) No.7849 of 2009

P.MANOHARAN

... Petitioner / Petitioner

Vs

1 THE STATE OF TAMIL NADU
REP. BY SECRETARY TO GOVERNMENT,
ENVIRONMENT AND FOREST DEPARTMENT,
FORT ST.GEORGE,
CHENNAI-9

2 THE ARASU RUBBER CORPORATION LIMITED,
REP. BY ITS MANAGING DREICTOR,
VADASERI,
NAGERCOIL-2

... Respondents / Respondents

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to clarify the order passed in WP(MD) NO. 7849 of 2009 dated 21.12.2017.



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Prayer in WP(MD). 7849/ 2009 :

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Writ Petition is filed under Article 226 of the Constitution of India, praying this Court may be pleased to issue Writ of Certiorarified Mandamus or any other writ or order or direction of a like nature calling for the records on the file of the 2nd respondent pertaining to its order in Ref.No.D1/7220/2006 dated 7-2-2007 and consequently direct the respondents to refund the amount of Rs.7,00,000/- as per Advocate Commissioners report in W.P.No. 6626 of 2000, Rs.16,57,000/- paid as EMD and the interest at the rate of 25% for the said amount.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.HEROLD SINGH.S.C., Advocate for the petitioner and of Mr.G.V.VAIRAM SANTHOSH, Additional Government Pleader on behalf of the Respondent No.1 and of Mr.A.K.MANIKKAM, Standing Counsel for the Respondent No.2, the court made the following order:-

Heard the learned counsel on either side.

2. The petitioner participated in an auction conducted by the second



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respondent in the year 1999 and he has also paid a sum of Rs.5,12,000/- towards EMD relating to coupes Nos.10, 11, 19, however, he was not permitted to take up the contract in view of a Public Interest Litigation Petition pending before this Court. Therefore, he has approached this Court in W.P.(MD)No.6414 of 2006, wherein, this Court, by order dated 31.07.2006, directed the second respondent to consider his representation dated 05.06.2006. However, the first respondent rejected the representation of the petitioner, by impugned order dated 07.02.2007. As against the same, the petitioner has filed the present writ petition. This Court, by order dated 21.12.2017, directed the second respondent to refund the sum of Rs.5,12,000/- to the petitioner with interest at the rate of 6%, within a period of six weeks from the date of receipt of a copy of the order. Pursuant to the order of this Court dated 21.12.2017, the second respondent has refund the amount of Rs.5,12,000/- together with interest at the rate of 6% p.a. from the date of the order in W.P.(MD)No.7849 of 2009, i.e. on 21.12.2017, instead of, from the date of payment, i.e. on 07.09.1999. Therefore, in order to clarify the same, the petitioner has approached this Court by way of this clarification petition.

3. Admittedly, the petitioner has deposited the sum of Rs.5,12,000/- towards EMD on 07.09.1999. Thereafter, the petitioner was not permitted to take up the



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contract due to the pendency of a Public Interest Litigation Petition. Since the respondents failed to repay that amount, he filed the present writ petition in W.P. (MD)No.7849 of 2009 and this Court, by order dated 21.12.2017, directed the second respondent to pay the sum of Rs.5,12,000/- to the petitioner along with interest at the rate of 6% p.a. However, it has been wrongly interpreted as if the interest has to be paid from the date of order, i.e. 21.12.2017. It appears that the petitioner has deposited the sum of Rs.5,12,000/- towards EMD on 07.09.1999. Therefore, the second respondent is liable to pay the sum of Rs.5,12,000/- along with the interest at the rate of 6% p.a. from the date of payment i.e. from 07.09.1999.

4. As per the Tender Notification, the petitioner paid the EMD amount on 07.09.1999. However, he could not execute the contract in view of the litigation. When it is not a fault on the part of the writ petitioner on the execution of work, the concerned authority in all fairness ought to have refunded the EMD amount. In this case, the petitioner is driven to file two writ petitions to get his reasonable demand and has been driven again to file this petition even after the earlier order of this Court dated 21.12.2017. This Court in the earlier order dated 21.12.2017 has observed as follows:

6. When the writ petition is taken up for hearing today, the



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learned counsel for both sides brought to the notice of this Court the affidavit filed by the second respondent on 26.10.2017, which reads as follows:-

“2. It is submitted that as stated in the impugned order dated 07.02.2007 passed by the second respondent and the counter affidavit of this second respondent in page 5 of the counter affidavit, the order with reference to E.M.D. of Rs. 5,12,000/- (Rupees Five Lakhs Twelve Thousand Only) relating to coupes No. 10, 11, 19 alone could not be issued to the petitioner in the above writ petition at that time because the relevant files were with the Vigilance and Anti Corruption Department.

3. It is submitted that now the second respondent undertakes to issue appropriate order on the merit of the case with reference to E.M.D. Amount Rs.5,12,000/- (Rupees Five Lakhs Twelve Thousand Only) within a period of four weeks relating to the coupes No. 10, 11, 19 which was taken in auction by the writ petitioner above named, in the event of petitioner not moving for further litigations.



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Hence, it is prayed that this Honourable Court may be pleased to pass such orders as this Hon'ble High Court may deem fit and proper in the circumstances of the case and thus render justice."

7. In my considered opinion, the non-payment of the amount by the petitioner is not due to his fault and at the relevant point of time, the writ petition filed before this Court, in the nature of a Public Interest Litigation, was pending. Therefore, having regard to the affidavit of the second respondent dated 26.10.2017 mentioned supra, this Court directs the second respondent to pay the sum of Rs.5,12,000/- to the petitioner with interest at the rate of 6%, within a period of six weeks from the date of receipt of a copy of this order.

5. The plain reading of the order disclose that the respondent was directed to refund the EMD together with interest. No clarification is required for the above order. If the Department was having any grievance, then, they ought to have challenged the order dated 21.12.2017. When the order becomes final, the interpretation made by the second respondent is defeated the very object of the



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order, which can be even treated as a contempt. Instead of invoking contempt, this

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petition is allowed with a cost of Rs.5000/-.

6. Accordingly, this petition is allowed with cost of Rs.5000/- (Rupees five thousand only) which has to be paid by the second respondent to the petitioner towards litigation expenses. It is clarified that the second respondent is liable to pay the sum of Rs.5,12,000/- together with interest at the rate of 6% p.a. from the date of payment, i.e. from 07.09.1999, till the date of realization, after deducting the returned amount already paid, within a period of four weeks from the date of receipt of a copy of this order.

sd/-
18/04/2023

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/07/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

OGY

To

1 THE SECRETARY TO GOVERNMENT,
STATE OF TAMIL NADU
ENVIRONMENT AND FOREST DEPARTMENT,
FORT ST.GEORGE,
CHENNAI-9

<https://www.mhc.tn.gov.in/judis>



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2 THE MANAGING DREICTOR,
ARASU RUBBER CORPORATION LIMITED,
VADASERI,
NAGERCOIL-2

+1CC to M/s.S.C.HEROLD SINGH, Advocate SR-22079(F), dated 19.04.2023.

+1CC to M/s.A.K.MANIKKAM, Advocate SR-22281 (F), dated 20.04.2023.

ORDER
IN
WMP(MD) No.3552 of 2019
IN
WP(MD) No.7849 of 2009
Date :18/04/2023

ED/MMS/SAR- (21/07/2023) 8P / 5C

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