



W.P.(MD)No.18914 of 2016

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :27.03.2023

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.18914 of 2016

K.Murugan

... Petitioner

Vs.

1.The Superintending Engineer (Head Quarters),
Tamil Nadu Housing Board,
Chennai.

2.The Superintending Engineer,
Madurai Circle,
Tamil Nadu Housing Board,
Ellies Nagar,
Madurai-625 016.

3.The Executive Engineer cum Administrative Officer,
Tamil Nadu Housing Board,
E.P.Colony, Anbu Nagar,
Tirunelveli-627 011.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the third respondent in his letter scheme/4467/2010 dated 17.07.2015 and quash the same as illegal and arbitrary and consequently direct the third respondent to release the



W.P.(MD)No.18914 of 2016

entire balance amount with interest in connection with the works in tender No.121/2010.

For Petitioner :Mr.G.Gomathi Sankar

For Respondents :Mr.S.Velmurugan

ORDER

The petitioner assails an order dated 17.07.2015 by which the request made by the petitioner for payments in relation to the work carried out by him for the respondents as a contractor was rejected.

2. The petitioner states that he is a registered contractor under the Tamil Nadu Public Works Department and that he was awarded a contract to carry out maintenance work in relation to the Government Employee's Quarters pursuant to a tender floated by the respondents. The petitioner asserts that he completed the work awarded to him but the respondents failed to pay a sum of Rs.3,20,852/- (Rupees Three Lakhs Twenty Thousand Eight Hundred and Fifty Two only). He had submitted a representation in such regard to the third respondent and filed W.P(MD).No.20340 of 2014 before this Court since the third respondent did not respond to such



W.P.(MD)No.18914 of 2016

representation. The said writ petition was disposed of, by order dated 17.04.2015, directing the third respondent to consider the representation and pass orders thereon. According to the petitioner, the impugned order was passed pursuant to the order dated 17.04.2015.

3. Learned counsel appearing for the petitioner assails the impugned order on the ground that the order was passed without examining the relevant records relating to completion of work.

4. The third respondent has filed a counter. In the said counter, the third respondent states that the petitioner completed 13 items of work fully and a further 17 items of work partly, from and out of 40 items of work awarded to him. The third respondent further states that an aggregate sum of Rs.5,66,985/- (Rupees Five Lakhs Sixty Six Thousand Nine Hundred and Eighty Five only) was paid to the petitioner as per the actual quantity of work done. It is further stated that such payment was made on the basis of the measurement book maintained by the parties. Therefore, the respondents state that no payments are due to the petitioner.



W.P.(MD)No.18914 of 2016

WEB COPY

5. From the counter of the third respondent, it is evident that the monetary claim made by the petitioner is disputed by the respondents and the third respondent relies upon the measurement book in such regard. Such disputed claims, which are dependent on the adjudication of disputed questions of fact, cannot be appropriately addressed in summary proceedings under Article 226 of the Constitution of India. In case there is an arbitration clause in the contract between the parties, the claim should be referred for arbitration. In the absence of an arbitration clause, the petitioner should approach the appropriate civil court. By leaving it open to the petitioner to approach either an arbitral tribunal or the appropriate civil court, W.P(MD).No.18914 of 2016 is disposed of. If the petitioner chooses to initiate proceedings either before an arbitral tribunal or a civil court, it will be open to the petitioner to take the benefit of applicable provisions of the Limitation Act, 1963. There shall be no order as to costs.

27.03.2023

NCC :No
Internet :Yes
Index :No
ssb



W.P.(MD)No.18914 of 2016

WEB COPY

To

- 1.The Superintending Engineer (Head Quarters),
Tamil Nadu Housing Board,
Chennai.
- 2.The Superintending Engineer,
Madurai Circle,
Tamil Nadu Housing Board,
Ellies Nagar,
Madurai-625 016.
- 3.The Executive Engineer cum Administrative Officer,
Tamil Nadu Housing Board,
E.P.Colony,Anbu Nagar,
Tirunelveli-627 011.



WEB COPY



W.P.(MD)No.18914 of 2016

SENTHILKUMAR RAMAMOORTHY, J.

ssb

W.P.(MD)No.18914 of 2016

27.03.2023