



WP (MD) No. 8607 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 21.02.2023

CORAM:

THE HONOURABLE MR. JUSTICE **B. PUGALENDHI**

WP (MD) No. 8607 of 2016

David Raja

... Petitioner

Vs

1. The Secretary to Government,
Public Works Department,
Chennai - 9.
2. The Secretary to Government,
Finance Department,
Chennai - 9.
3. The Chief Engineer,
Water Resources Organisation,
Public Works Department,
Madurai Region,
Tallakulam, Madurai - 2.
4. The Superintendent of Engineer,
Water Resources Organisation,
Public Works Department,
Tamaraparani Basin Circle,
Tirunelveli - 2.
5. The Executive Engineer,
Water Resources Organisation,
Public Works Department,
Kodayar Basin Division,
Nagercoil, Kanyakumari District.



WP(MD)No.8607 of 2016

6.The Assistant Executive Engineer,
Pazhayar Basi Sub Division,
Water Resource Organisation,
Public Works Department,
Nagercoil, Kanyakumari District.

7.The Assistant Engineer,
Irrigation Section, Mylaudy,
Water Resources Organisation,
Mylaudy, Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus, directing the 5th respondent to settle the balance bill amount of Rs.5,05,774/- with 18% interest for the belated payment periods to the petitioner forthwith.

For Petitioner : Mr.N.S.Ramakrishnadass

For Respondents : Mr.T.Vilavan Kothai,
Additional Government Pleader

ORDER

The petitioner, who is a Contractor has executed work to the respondents filed this writ petition for a mandamus directing the fifth respondent to settle his balance bill amount of Rs.5,05,774/- with 18% interest per annum.



WP(MD)No.8607 of 2016

2.The learned Counsel for the petitioner submits that the petitioner has constructed a water storage tank in State Horticulture Farm at Kanyakumari District with electric motor and pipeline arrangements of Rs.15 lakh as per agreement No.25SE/TBC/2009-2010 and Suppl/TBC/2010-2011. During the construction there was heavy rain in that area on 18.10.2012 to 20.10.2012. Due to the heavy rain, the foundation area was damaged and the entire work carried out got collapsed. The officials have also made an inspection and prepared a modified design with stability calculation to carry out the construction work, which was also communicated by the 4th respondent by his letter dated 24.10.2012 to the 5th respondent. The petitioner has carried out the work as per the revised plan and has also completed the work under the supervision and directions of the 7th respondent. Though the work was completed, the bill amount has not been settled and this petitioner claims a sum of Rs.9,20,337/- towards the work executed by him and therefore, the petitioner has approached this Court.



WP(MD)No.8607 of 2016

3.The learned Additional Government Pleader appearing for the respondent submits that the agreement was only for a sum Rs.12,93,599/- and this petitioner has executed his work to an extent of Rs.11,18,793/- and the amount was settled to the petitioner without any balance. The remaining work was not carried out by the petitioner and therefore, the petitioner is not entitled for the same.

4.The learned Additional Government Pleader has also relied on Condition Nos.47.1, 15.1 and 69 of the contract and submits that as per the terms and conditions of the contract, this petitioner is not entitled for the additional amount as claimed by him.

5.This Court considered the rival submissions and perused the materials placed on record.

6.The petitioner has executed contract work based on the contract and has filed this writ petition that the amount has not been settled to him. The contract has been awarded based on an agreement. As per the condition No.69



WP(MD)No.8607 of 2016

of the agreement, if any dispute arises between the parties during the progress or after completion of work or after the determination, abandonment or breach of the contract as to any matter or thing arising thereunder are left to the sole discretion of the Executive Engineer. The petitioner without exhausting the arbitration remedy has filed this writ petition.

7. Therefore this writ petition is disposed of with a direction to the petitioner to approach the Executive Engineer / 5th respondent, with relevant records within a period of two weeks from the date of receipt of a copy of this order and the 5th respondent shall take a decision as per the agreement, within a period of eight weeks from thereon. No costs.

21.02.2023

Internet : Yes / No

dsk



WP (MD) No. 8607 of 2016

WEB COPY

To

1. The Secretary to Government,
Public Works Department,
Chennai - 9.
2. The Secretary to Government,
Finance Department,
Chennai - 9.
3. The Chief Engineer,
Water Resources Organisation,
Public Works Department,
Madurai Region,
Tallakulam, Madurai - 2.
4. The Superintendent of Engineer,
Water Resources Organisation,
Public Works Department,
Tamaraparani Basi Circle,
Tirunelveli - 2.
5. The Executive Engineer,
Water Resources Organisation,
Public Works Department,
Kodayar Basin Division,
Nagercoil, Kanyakumari District.
6. The Assistant Executive Engineer,
Pazhayar Basin Sub Division,
Water Resource Organisation,
Public Works Department,
Nagercoil, Kanyakumari District.
7. The Assistant Engineer,
Irrigation Section, Mylaudy,
Water Resources Organisation,
Mylaudy, Kanyakumari District.



WEB COPY



WP (MD) No.8607 of 2016

B. PUGALENDHI, J.

dsk

WP (MD) No.8607 of 2016

21.02.2023