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W.P.No.22423 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.22423 of 2023
and
W.M.P.No.21834 of 2023

M/S.Kongu Construction And Contractors,
Rep. By Managing Partner,
Mr. N.K.Devanandan,
No. 39, 3rd Kovalam Street,
Teachers Colony, Erode - 638 011.

... Petitioner

Vs.

1. The Government Of Tamil Nadu,
Represented By Its Principal Secretary,
Housing And Urban Development Department,
Fort St. George, Chennai - 600 009.

2. The Chairman,
Tamil Nadu Urban Habitat Development Board,
No. 5, Kamarajar Salai,
No. 5, Kamarajar Salai,
(Near Vivekananda Mandapam),
Chennai - 600 005.

3. The Superintending Engineer,
Tamil Nadu Urban Habitat Development Board,
North Circle-II(A/C),
New No. 56, Old No. 140,
Santhome High Road,
Chennai - 600 004.



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4. The Executive Engineer,
Division-II,
Tamil Nadu Urban Habitat Development Board,
Chennai - 600 039.

5. The Assistant Executive Engineer,
Sub Division-I, Division-II,
Tamil Nadu Urban Habitat Development Board,
Chennai - 600 010.

6. The Assistant Engineer,
Sub Division-I, Division-II,
Tamil Nadu Urban Habitat Development Board,
Chennai - 600 010.

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, calling for entire records pertaining to the impugned order dated 06.07.2023 of the 3rd Respondent made in Final Notice No. TNUHDB/3090/D1/SE(NC-II)/2020 and quash the same and consequentially, direct the Respondents to permit the Petitioner to carry out and complete the balance works at the prevailing market rates within the reasonable time.

For Petitioner : Mr.Thirumalai Rajagopal

For Respondents : Mr.K.Surendran, AGP (for R1)

: Mr.R.Ramanlaal AAG, assisted by
Mr.G.Siva Kumar, SC (for R2 to R6)



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ORDER

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The final notice issued by the Tamil Nadu Urban Habitat Development Board, in proceeding dated 06.07.2023, assign the petitioner to complete all the works as per the agreement at the earliest for the benefit of the poor homeless people in the state is under challenge in the present writ petition.

2. The petitioner is a construction company and was a successful bidder. Work order was issued to the petitioner for construction of 288 tenements adopting types design 14B/2020 (Ground + 5 Stories) including internal and external water supply, sanitary and electrification arrangements with development works at M.G.R. Nagar Scheme in Greater Chennai Corporation Division No.37, Zone IV under HFA of PMAY (AHP).

3. The period of contract for the above work is 15 months. The petitioner raises certain difficulties in completing the work within a period of 15 months since there was a delay in handing over the site by the respondents. However, these issues are to be resolved through negotiation with the competent authorities by placing the practical difficulties, if any



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exists.

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4. Contrarily, the petitioner cannot challenge the Notice issued by the writ petition and by obtaining an interim order from this Court cannot prolong and protract implementation of this project, which is the contractual obligation as per the agreement entered into between the petitioner and the Tamil Nadu Urban Habitat Development Board.

5. The project has been developed by the Board for the benefit of poor homeless people in Chennai city. Delay in completion of the said project would cause prejudice to the public interest. The poor homeless people are shifted for the purpose of demolition and re-construction of new building in the said site. Therefore, the petitioner is duty bound to complete the project as per the time agreed by him in the contract. The petitioner is bound by the terms and conditions of the contract wherein he is a signatory and now he cannot turn around and challenge the final Notice issued by the Board merely on the ground that he faces certain difficulties.

6. The impugned final Notice dated 06.09.2023, reveals that the respondent Board has instructed the petitioner to resume the work



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immediately and to submit a program chart to complete all the works as per the agreement at the earliest, failing which actions will be initiated as per TNDSS Clause 57 to terminate the agreement. Instead of responding to the said Notice, the petitioner has chosen to file the present writ petition.

7. Such final Notice issued to the petitioner by providing an opportunity to him to submit his reply would not provide a cause for filing a writ petition. The petitioner is ought to have submitted his program chart to complete all the works as per the terms of the agreement but instead, the petitioner made an attempt to prolong and protract the issue which cannot be appreciated by this Court.

8. The learned Additional Advocate General Mr.R.Raman Laal would contend that arbitration clause is incorporated in the agreement. If at all any dispute arises the parties have to resolve it through arbitration and therefore, the writ petition is not maintainable.

9. In any event, the petitioner has not negotiated with the respondent for the purpose of competition of the project. Since the project has been proposed for the benefit of the poor homeless people and in the event of default on the part of the petitioner, the respondent Board is empowered to



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invoke the terms and conditions of the contract for initiation of all further actions and to ensure that the project is completed as per the time stipulated or within a reasonable period and allotments are made to the poor homeless people for their occupation.

10. With these clarification, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(sha)
Index : Yes
Speaking Order
Neutral Citation : Yes

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S.M.SUBRAMANIAM. J.,

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