



W.P.No.22782 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2024

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.22782 of 2024

M/s. KCP Infra Ltd.,
(Formerly known as “KCP Engineers Ltd.”),
Reg. Office at No. 4,
Ground Floor, Alayam Space,
Ananda Road, Alwarpet,
Chennai – 600 018,
Rep. by its Director,
K.Muthukumarasamy.

... Petitioner

Vs

1. The Principal Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat,
Fort. St. George,
Chennai – 600 009.
2. The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai – 600 003.
3. The Superintending Engineer,
Storm Water Drain Department,
Greater Chennai Corporation,
Ripon Building,
Chennai – 600 003.

... Respondents



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Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to disburse the present bills amount of Rs.43,26,00,000/- (Rupees Forty Three Crores Twenty Six Lakhs only) along with interest to the petitioner, towards the valude of the work done in work order numbers, viz., 1) S.W.D.C. No. B1/662-3/2020 dated 12.01.2021, 2) S.W.D.C.No.B1/662-21/2020 dated 11.02.2021, 3) S.W.D.C.No.B1/662-29/2020 dated 20.02.2021 and 4) S.W.D.C.No.B1/662-33/2020 dated 05.02.2021 by the petitioner in Chennai Corporation by considering the petitioner's representation dated 12.07.2024.

For Petitioner : Mr. S.Doraisamy

For Respondents : Dr. T.Seenivasan,
Special Government Pleader (for R1)

Mrs. P.T.Ramadevi,
Standing Counsel (for R2 & R3)

O R D E R

With the consent of both sides, this Writ Petition has been taken up for disposal at the admission stage itself.



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2. This Writ Petition has been filed for directing the respondents to disburse the present bills amount of Rs. 43,26,00,000/- (Rupees Forty Three Crores Twenty Six Lakhs only), along with interest, to the petitioner, towards the value of the work done in work order numbers, viz., 1) S.W.D.C. No. B1/662-3/2020 dated 12.01.2021, 2) S.W.D.C. No. B1/662-21/2020 dated 11.02.2021, 3) S.W.D.C. No. B1/662-29/2020 dated 20.02.2021, and 4) S.W.D.C. No. B1/662-33/2020 dated 05.02.2021, by the petitioner in Chennai Corporation, by considering the petitioner's representation dated 12.07.2024.

3. The petitioner is a registered Class-I contractor under the respondents/Corporation. The petitioner has executed several works in all the Government Departments in Tamil Nadu as well as the Municipal Corporations. While that being so, the respondents called for tenders for the below-mentioned works:-

“1. Integrated Urban Flood Management for the Chennai Kosasthalayar Project-under ADB Fund-Constriction fo Integrated Strom Water Drain in Korattu Lake Watershed of Kosasthalayar basin in the extended



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areas of Greater Chennai Corporation under Asian Development Bank (ADB) Fund (pkg-3 Outfall 2 to 12).

2. Integrated Urban Flood Management for the Chennai Kosasthalayar Project-under ADB Fund-Construction of Integrated Storm Water Drain in Puzhal Surplus South Watershed of Kosasthalayar basin in the extended areas of Greater Chennai Corporation pkg-21-Outfall GP1, GP2 and GP3)

3. Construction of integrated storm water drain in Puzhal Surplus North Watershed of Kosasthalaiyar basin in the extended areas of Greater Chennai Corporation (Package 29 – Outfall 9 to 13, 15 to 18).

4. Construction of integrated storm water drain in North Buckingham Canal Watershed of Kosasthalaiyar basin in the extended areas of Greater Chennai Corporation (Package 33 – Outfall – 1 to 4) (Division – 7.27, 28, 29 – zone-1 & 3).

4. The petitioner was the successful bidder, and accordingly, an agreement was entered into between the petitioner and the respondents. As per Payment Clause No. 50, the payment should have been made as follows:-



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“Payment Schedule:

50. 1 Payments shall be adjusted for deductions for advance payments and retention. The Employer shall pay the Contractor the amounts certified by the Project Manager within 28 days of the date of each certificate. If the Employer makes a late payment, the Contractor shall be paid interest on the late payment in the next payment. Interest shall be calculated from the date by which the payment should have been made up to the date when the late payment is made at the prevailing rate of interest for commercial borrowing for each of the currencies in which payments are made.”

5. After completing the entire work successfully, the petitioner raised bills for each stage, and a total pending amount of Rs. 45 Crores was due. Therefore, the petitioner filed a Writ Petition in W.P. No. 879 of 2023, and this Court, by order dated 11.01.2023, directed the respondents to consider the claim made by the petitioner and disburse the same within a



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period of one month from the date of that order. However, the said order was not complied with, and after filing a Contempt Petition, the said amount was paid. For further claims, once again, the petitioner was constrained to approach this Court in W.P. No. 44 of 2024, and this Court, by order dated 20.02.2024, directed the respondents to pay the amount claimed by the petitioner within a period of 15 days from the date of receipt of a copy of that order. Now, for the next stage, the petitioner raised bills to the tune of Rs. 43,26,00,000/-. However, it is pending without payment.

6. The learned Standing Counsel appearing for the second and third respondents submitted that the petitioner raised bills only for the month of April, and it is under progress.

7. In view of the above submissions, the respondents are directed to disburse the bill amount of Rs. 43,26,00,000/-, as per the bills raised for work order numbers, viz., 1) S.W.D.C. No. B1/662-3/2020 dated 12.01.2021, 2) S.W.D.C. No. B1/662-21/2020 dated 11.02.2021, 3) S.W.D.C. No. B1/662-29/2020 dated 20.02.2021, and 4) S.W.D.C. No.



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B1/662-33/2020 dated 05.02.2021, within a period of six weeks from the date of receipt of a copy of this order.

8. With the above directions, this Writ Petition is disposed of. No costs.

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Index:Yes/No
Neutral Citation/Yes/No
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To

1. The Principal Secretary to Government,
Municipal Administration and Water Supply Department,
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Fort. St. George,
Chennai – 600 009.
2. The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai – 600 003.
3. The Superintending Engineer,
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