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W.P.No.26928 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2024

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

Writ Petition No.26928 of 2019

S.S.Natarajan and Co.,
Engineering Contractors
Rep by The Managing Partner
S.S.Natarajan S/o.Late SamiappaGounder
D.No.06, Telephone Nagar
Moolapalayam, Erode 638 002.

.... Petitioner

-Vs-

1 The Registrar of Co operative Societies(Housing)
Tamil Nadu Housing Board Complex
No.48 Ritherdon Road Vepery
Chennai-600 007.

2 The Regional Deputy Registrar (Housing)
(Additional Full Incharge)
Tiruchirapalli Region
Khaja Nagar
Tiruchirappalli-20.

3 The President
Dheeran Chinnamalai Transport Corporation
Employees Cooperative
House Building Society Ltd.,TRY.(HG)16
Opp. to Collectorate
Tiruchirappalli-1.



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4 The Secretary
Dheeran Chinnamalai Transport
Corporation Employees Cooperative
House Building Society Ltd., TRY.(HG)16
Opp.to Collectorate
Tiruchirappalli-1.

...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to pay a sum of Rs.2,80,00,000/- [Two Crores Eighty Lakhs Only] towards insofar completion of the construction cost and about a sum of Rs.30,00,000/- [Rs.Thirty Lakhs Only] towards infrastructures amount which was spent for pre constructions with interest @ 18% from the date of dues to till date of realization of the entire amount within a time frame as fixed by this Court.

For Petitioner : Mr. Ma.P.Thangavel

For Respondents : Mr.S.Ravikumar
Special Government Pleader
for R1 & R2

Mr.L.P.Shanmugasundaram
for R3 & R4

ORDER

The Writ Petition has been filed in the nature of a Mandamus seeking a direction against the respondents to pay a sum of Rs.2,80,00,000/- towards completion of construction cost and a sum of Rs.30,00,000/- towards infrastructure which was spent for pre constructions together with interest.



2. In the affidavit filed in support of the writ petition, it had been stated that the petitioner had participated in a tender in August 2015, called by the 3rd respondent, Dheeran Chinnamalai Transport Corporation, Employees Co-operative Housing Building Society Limited at Trichy for construction of 'A' type (Phase-I & Phase-II) and 'B' type Housing Buildings totally 108 houses at Kamatchipatti Village, Musiri Taluk, Trichy District. The petitioner had made an Earnest Money Deposit of Rs.4,95,000/-. He was the successful bidder. Thereafter, he commenced construction and he had constructed 49 houses for total cost of Rs.3,93,23,530.03. He had given a representation pointing out the delay in the construction and also in the release of payments to the petitioner herein. The petitioner had received only a sum of Rs.20,00,000/- on 29.9.2018 out of the due of Rs.2,69,92,692/- It is under those circumstances, the writ petition has been filed seeking a direction to pay the amounts payable to the petitioner herein.

2. It is contended by the learned Special Government that 1st, 2nd and 3rd respondents are run only by the Administrator. An affidavit had been filed on behalf of the Administrator of the 3rd and 4th respondents which is as follows:

“4.I submit that the 3rd respondent society already settled the



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construction work bill payment till 15.05.2024 Rs.3,56,89,278/- (Three Crores Fifty Six Lakhs Eighty Nine Thousand Two Hundred and Seventy Eight Rupees).

5.I submit that the petitioner and the 3rd respondent through the then Board of Directors entered into agreement dated 30.12.2025 for the construction of houses. As per the agreement between the society and contractor S.S.Natarajan and Co., withheld and retained amounts would be refunded to the contractor only at the expiry of one year from the date completion of the work by obtaining the indemnity bond for a further period of 4 years to establish the quality of the work executed.

6.I further submit that as per the above agreement the final bill amounts were paid on 15.05.2024 and the pending amount details are below:

Withheld amount : Rs.24,70,371/-

Earnest Money Deposit : Rs. 5,00,000/-

Additional Security Deposit : Rs. 9,29,818/-

Rs.39,00,189/-

6.I further submit that the 3rd respondent society ready to refund the above said pending amount on or before 14.05.2025 with 4 instalments basis and above said amount is not a bill payment is only security deposit as per the agreement. So, the society is not responsible for the interest seeking by the petitioner.



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3.The learned Special Government Pleader states that the 3rd respondent and the petitioner had entered into an indemnity bond which had also obtained for a further period of 4 years to establish the quality of the work executed. It is however stated that the entire amounts would be paid on or before 14.05.2025. The affidavit is recorded. The Writ Petition stands disposed of with a direction to the respondents to abide by the affidavit now filed before this Court. If the petitioner needs interest on the amounts let him first collect the outstanding amount.

4.The Writ Petition stands disposed of. No costs.

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Index : Yes/No
NCS : Yes/No
KP



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C.V.KARTHIKEYAN.,J
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