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W.P. No. 85 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2024

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

**W.P. No. 85 of 2024
and
W.M.P. No. 87 of 2024**

R. Lenin

... Petitioner

-VS-

1. The State of Tamil Nadu
Rep. by its Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St. George,
Chennai 600 009.
2. The Commissioner of Municipal Administration,
Government of Tamil Nadu,
Chepauk,
Chennai 600 005.
3. The Commissioner,
Thiruvathipuram Municipality,
Thiruvathipuram,
Thiruvannamalai District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent pertaining to the impugned proceeding dated 08.06.2023 bearing Na Ka. No.4130/2012/E1 and quash the same and consequently, direct the 3rd respondent to pay to the petitioner the sum of Rs.27,74,278/- along with interest at the rate of 9% p.a. being the sums payable



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to the petitioner for the completion of the work order bearing ROC No. 4130/2012/E1 dated 29.01.2014 titled "Improvement of Bus Stand in Thiruvathipuram Municipality".

For Petitioner : Mr. G. Adithyaraj

For Respondents : Mr. G.Nanmaran, (for R1 and R2)
Special Government Pleader

Mr. L.P.Mauriya (for R3)

ORDER

Heard Mr. G.Adithyaraj, Learned Counsel for the Petitioner, Mr. G.Nanmaran, Learned Special Government Pleader appearing for the First and Second Respondent and Mr. L.P.Mauriya, Learned Counsel for the Third Respondent, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Third Respondent by Proceeding in Roc.No.4130/2012/E1 dated 29.01.2014 had awarded the execution of the works contract pertaining to the improvement of Bus Stand in Thiruvathipuram Municipality in favour of the Petitioner, who had earlier filed the Writ Petition in W.P. No. 10827 of 2017 in this Court seeking direction to release payment of the outstanding amount of Rs. 27,74,278/- due to him, which was disposed by order dated 06.07.2022



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holding as follows:-

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“ 14. Considering the fact that, in the case on hand, the enquiry has been completed, the first respondent herein is directed to come to a conclusion one way or the other and settle the amounts if any payable to the petitioner, within a period of two weeks from the date of receipt of a copy of this order.

15. In case the petitioner is entitled for any amounts, the second respondent shall also pay the interest at the bank rate for the delayed period.”

In furtherance to the said order, the Third Respondent by Proceedings in Na. Ka. No. 4130/2012/E1 dated 08.06.2023 had arrived at the conclusion that the Petitioner was entitled to the amounts as per the details shown below:-

Calculation of Amount to be paid to the Contractor

<i>Balance to be paid</i>	<i>Total value of work done. Net payment</i>	<i>Rs. 29,28,105/-</i>
	<i>Less Non Refundable deductions (IT, VAT and LWF)</i>	<i>Rs. 10,35,688/-</i>
	<i>Balance to be paid out of gross work done value</i>	<i>Rs. 18,92,417/-</i>
	<i>Add FSD 2% (including EMD paid by the Contractor)</i>	<i>Rs. 58,60,000/-</i>



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	Total Amount to be paid	Rs. 24,78,417/-
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However, the sum of Rs. 2,58,980/- was alone paid to the Petitioner by cheque dated 08.06.2023 and the remaining sum of Rs. 23,08,102/- was withheld from towards dues owed under other contracts on account of objections raised by the Director of Local Funds, which is reflected in the impugned order. In that backdrop, this Writ Petition has been filed seeking to release of payment of the withheld amount with interest.

3. It is evident that the nature of relief claimed by the Petitioner falls within the realm of disputed questions of fact, which cannot be effectively determined by this Court in proceedings under Article 226 of the Constitution following summary procedure. It must be recapitulated here that the Hon'ble Supreme Court of India in the decision in **Director of Agriculture -vs- M.V.Ramachandran** (Order dated 17.03.2023 in Civil Appeal @ Special Leave Petition (C) No. 18731 of 2021) has cautioned that such claims relating to recovery of money due and payable under bills/invoices would have to be pursued only in a properly framed suit impleading necessary parties before the civil court. In such circumstances, the Petitioner has not been impeded from canvassing what is sought to be agitated in this Writ Petition in the aforesaid remedy and there is no acceptable explanation from the Petitioner for not



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having availed it. In that view of the matter, this Court is not inclined to entertain this Writ Petition or delve into the merits of the controversy involved.

In the result, the Writ Petition is disposed with the aforesaid observations. Consequently, the connected Miscellaneous Petition is closed. No costs.

19.01.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 05.06.2024.

pal/Gsa

To

1. Secretary to Government
The State of Tamil Nadu
Municipal Administration and Water Supply Department,
Fort St. George
Chennai 600 009
2. The Commissioner of Municipal Administration
Government of Tamil Nadu
Chepauk
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P.D. AUDIKESAVALU, J.

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