



W.P.No.11662 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 01.04.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.11662 of 2025
& W.M.P.No.13186 of 2025

M/s. KONGU CONSTRUCTION & CONTRACTORS

Rep by Managing Partner,

Mr.N.K.Devanandan,

No.39, 3rd Kovalan Street,

Teachers Colony,

Erode- 638 011

... Petitioner

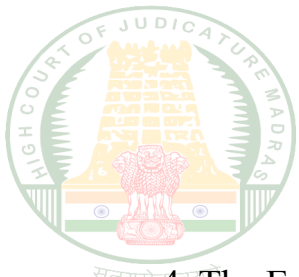
/versus/

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
(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 is filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, calling for entire records pertaining to the impugned order dated 5th February 2025 bearing Letter Ref.No.TNUHDB/3090/D1/SE/(NC-II)/2020 and quash the same and consequently direct the respondents to disburse receivables due under Agreement C.R.No.33/ SE (CC-II)/ 2020-2021.

For Petitioner : Mr.A.K.Sriram, Senior Counsel,
for Ms.V.Shrivirudishni

For Respondents : Mr.V.Manoharan,
Additional Government Pleader, for R1.
: Mr.R.Ramanlal, Additional Advocate General,
Assisted by Mr.S.Karthikeyan,(TNUHDB), for R2 to R6



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ORDER

This writ petition is filed with a prayer to call for the records relating to the impugned order dated 05.02.2025 and to quash the same and consequently direct the respondents to disburse the receivables due under the Agreement C.R.No.33/SE (CC-II)/2020-2021.

2. Heard Mr.A.KSriram, Learned Senior Counsel for petitioner, Mr.V.Manoharan, Learned Additional Government Pleader for the 1st respondent and Mr.R.Ramanlal, Learned Additional Advocate General appearing on behalf of the respondents 2 to 6.

3. The Learned Senior Counsel appearing on behalf of the petitioner would submit that even though the last sentence of the impugned order states as if it is showcase notice and request the petitioner to send their reply within 15 days, in the preceding paragraph already the entire issue has been concluded and it is also stated that a sum of Rs.66,17,861/- will be adjusted and for the balance action will be initiated. Therefore, the petitioner is before this Court.



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4. The Learned Senior Counsel pointing out to the order that is passed

in the earlier round of litigation between the parties would submit that a stand was taken in W.P.No.22423 of 2023 by the Additional Advocate General that there is an arbitration clause in the agreement and in case of any dispute, they have to resort to arbitration. The petitioner is also ready for arbitration. Therefore, even if the respondents 2 to 6 claim any damages, they have to resort to arbitration and get it quantified in the same process and therefore, the impugned order is liable to be quashed.

5. Per contra, the Learned Additional Advocate General would submit that in respect of the earlier order, already a writ appeal is being preferred by the petitioner and the stand relating to arbitration was taken in a different context. The Learned Additional Advocate General would submit that the order that is impugned dated 05.02.2025 is meant only to be a showcause notice. Even if any averments is made as if a decision is taken that is only improper wording. The respondent authorities will be considering all the explanation that is afforded by the petitioner and they will pass orders in accordance with law.



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6. I have considered the rival submissions made on either side and

perused the material records of this case.

7. In this case, firstly with reference to arbitration, the relevant clause is contained in the agreement and the same is extracted hereunder for ready reference:

ARBIRATION CLAUSE

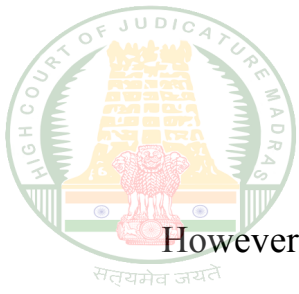
The arbitration for fulfilling the duties set forth in the arbitration clause of the standard preliminary specification shall be:

*Claims upto Rs.10,000/- Superintending Engineer,
Chennai Circle – II of TNSCB.*

Claim upto Rs.50,000/- Chief Engineer, TNSCB

*Claims above Rs.50,000/- Court of Law under jurisdiction of
Chennai City.*

8. Though, it mentions as arbitration clause, it only states that above Rs.50,000/- will be decided in Court of law within the jurisdiction of Chennai City and as such there is no Arbitration clause. Even if the arbitration clause is absent, if both parties submit in writing before this Court, the Court can refer to them.



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However, such a course is not agreed to by the respondents 2 to 6.

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9. This Court has to consider only the validity or otherwise of the impugned order. It stated by the Learned Additional Advocate General that the impugned order is nothing but a showcause notice and in spite of the averments that are made in the penultimate paragraph, the issue is not yet decided and the respondents will decide the issue after considering the explanation that is submitted by the petitioner.

10. In view thereof, the averments that are made as if the compensation is quantified and sum of Rs.66,17,861/- will be adjusted are not sustained. The impugned order shall be treated as a simple showcause notice as to why further action cannot be initiated against the petitioner and the petitioner will be entitled to submit all its objections including the ones raised in the writ petition and the 3rd respondent has to consider the same in accordance with law and pass final orders. The petitioner shall submit afresh explanation within a period of two weeks, from the date of receipt of the web copy of the order without waiting for the certified copy of the order.



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11. This Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

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Neutral Citation : Yes/No.
bsm

To,

1. The Principal Secretary,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St.George, Chennai - 600 009.

2. The Chairman,
Tamil Nadu Urban Habitat Development Board,
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,
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4. The Executive Engineer,
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5. The Assistant Executive Engineer,

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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.

7. The Government Pleader, High Court, Madras.



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D.BHARATHA CHAKRAVARTHY, J.

bsm

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