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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.11.2025

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

Writ Petition(MD)No.14280 of 2022

M.M.Cleetus

.. Petitioner

Vs

- 1.The Principal Secretary,
Municipal Administration and Water Supply Department,
St.George Fort,
Secretariat, Chennai.
- 2.The Director of Municipal Administration,
MRC Nagar, Santhome High Road,
Chennai -28.
- 3.The Regional Director of Municipal Administration,
Ram Popular Salai,
Palayamkottai,
Tirunelveli District 627 002.
- 4.The Commissioner,
Kulithurai Municipality,
Kanyakumari District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to disburse the petitioner's EMD amount of Rs.3,34,000/-, 5% of the withheld amount of Rs.12,07,177/- balance bill amount for the work done of Rs.89,800/- totally Rs.16,30,977/- base on the petitioner's representation dated 29.10.2021 and pass orders within the time stipulated by this Court.



For Petitioner : Mr.G.Sankaran

For Respondents : Mrs.S.Jeya Priya
Government Advocate (for R1 to R3)
Mr.P.Aathimoola Pandian (for R4)

ORDER

The petitioner has filed this writ petition seeking a mandamus to the respondents to disburse the petitioner's EMD amount of Rs.3,34,000/-, 5% of the withheld amount of Rs.12,07,177/- balance bill amount for the work done of Rs.89,800/- totally Rs.16,30,977/- base on the petitioner's representation dated 29.10.2021 and pass orders within the time stipulated by this Court.

2. The petitioner contention is that he is the Class 1 Contractor, who had been the successful bidder in respect of the construction of New Bus Base passenger shelter terminal building, Shops, Parking, Pavements, for Bus Stand in the fourth respondent Municipality. An agreement was signed on 27.01.2010 between the petitioner and the fourth respondent Municipality. The estimated value of the work was Rs.3,59,30,804.68/-. As per the condition, the petitioner had also deposited the EMD with the fourth respondent Municipality. He would submit that he had completed the construction on 30.05.2012, but due to some unavoidable circumstances, the work had been commenced with the delay of four months. This was on



account of the fact that the fourth respondent had not handed over the possession of the property and the petitioner was able to begin construction only after removal of 10 to 12 trees standing on the site.

3. The petitioner would further submit that the project cost has escalated substantially due to the steep increase in the price of sand and other construction materials. The petitioner had brought this cost escalation to the notice of the fourth respondent, who had assured that necessary steps would be taken in this regard. The petitioner would submit that 80% of the construction work has been completed and 20% remains unfinished. While the petitioner was awaiting the revised cost enhancement, he was surprised to receive a letter dated 28.03.2012, which was in fact received on 08.12.2013, informing him that the construction work should be completed on or before 15.04.2013, failing which, he would be blacklisted. The petitioner gave an explanation on 09.04.2013 explaining the heavy loss that he had incurred for the completion of 80% of the contractual work and requested the respondents to revise the rates. This request was made on the basis of the G.O.Ms.No.227, dated 23.11.2009, which stipulates assessment by reason of increase price can be made by the respective Municipality. Therefore, it is the contention of the writ petitioner that the fourth respondent ought to have provided the contractual rate.



4. The petitioner was thereafter served with the letter dated 24.04.2013 informing him that his work order has been cancelled. This cancellation was challenged by the petitioner by filing W.P(MD).No.6356 of 2013. During the pendency of that writ petition, the work was allotted to the third party Contractor, who had finished the balance 20 % work. The petitioner had been time and again requesting the respondents to return the EMD. However, there has been no response and hence, this writ petition.

5. In the counter statement, the fourth respondent would submit that the contention that the site was handed over with the delay is absolutely false, as it was handed over within time. The respondent would submit that right from the very beginning, the petitioner has been delaying the execution of work. The work order was issued on 27.01.2010 and was extended for two more years and once again, extended for a period of 11 months. The contention that there was an increase in the cost of sand and transportation has also been denied by the fourth respondent. The fourth respondent, on the contrary, would submit that they had suffered a huge revenue loss and ultimately, the work order was cancelled on 12.04.2013, after giving several notices to the petitioner and after blacklisting him, this order was challenged by the petitioner in W.P(MD).No.6873 of 2013 and the same was dismissed as infructuous on 17.02.2016, as by then the work had been handed over to another Contractor, who had completed the balance work.



Since the petitioner had not completed the tender work as per the agreement even after extension, he is not entitled to refund of the EMD amount, as it is a violation of the terms of the agreement.

6. Heard the learned counsel on either side and perused the materials available on record.

7. The petitioner had been blacklisted and this order was challenged in W.P(MD).No.6873 of 2013. In the said proceedings, the fourth respondent had clearly stated that the work order had been issued to another person and he has completed the work, at that point in time, the petitioner has not made any claim for refund of the Earnest Money Deposit. The order in question has passed as early as on 17.02.2016. The cancellation of the contract took place on 12.04.2013. From 12.04.2013, the petitioner has not claimed refund of the Earnest Money Deposit, as he is fully aware about the terms of the contract and even in the earlier writ petition a demand for the same has not been made. The petitioner has, after a period of nine years from the cancellation of the work order, made the above claim.

8. The respondents have submitted that as per the contract since the petitioner had committed breach of contract in not completing the work in



time, despite two extensions as per the terms of the contract, he had forfeited the EMD. Further, the respondents have been constrained to engage the third party to complete the construction. In this circumstance, I find no merits in this writ petition. Accordingly, this Writ Petition is dismissed. No costs.

20.11.2025

NCC : Yes/No
Index : Yes/No
Internet:Yes
Rmk

To

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P.T.ASHA, J.

Rmk

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