HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

WEDNESDAY ,THE TWENTY SECOND DAY OF JANUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE P.SAM KOSHY
AND
THE HONOURABLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO

WRIT APPEAL NO: 342 OF 2024

Writ Appeal under clause 15 of the Letters Patent preferred against the order dated 14/11/2023 passed in the W P No 30810 of 2023. on the file of the High Court.

Between:

M/s V K A Constructions, H. No. 11-13-1056/2, Plot No. 273, Road No. 9, Vasavi Colony, R K Puram, Hyderabad, Telangana 500 102 A Registered partnership firm, Rep. by its Managing Partner K R Kaushal Karan

...APPELLANT

AND

1. State of Telangana, Represented by its Principal Secretary, Municipal Administration and Urban Development Department, Telangana Secretariat, Hyderabad.
2. Hyderabad Metro Rail Limited, Represented by its Managing Director, Rasoolpura, Begumpet, Hyderabad - 500016.
3. The Special Projects Officer / Superintending Engineer, Hyderabad Metro Rail Limited, Rasoolpura, Begumpet, Hyderabad - 500016.
4. The Projects Officer / Executive Engineer, Hyderabad Metro Rail Limited, Rasoolpura, Begumpet, Hyderabad - 500016.
5. The Sub Divisional Officer / Deputy Executive Engineer, Hyderabad Metro Rail Limited, Rasoolpura, Begumpet, Hyderabad - 500016.

...RESPONDENTS

IA NO: 2 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondents to release the payment certified by the Respondent No. 4 on 07-07-2020 vide page 10 of the Departmental Measurement Book No. 26/2019-20 for the gross amount of Rs. 56,61,076/-, deductions of Rs 3,46,854/- and net payment of Rs. 53,14,222/- along with the interest @ 18% from the date of certification until the date of realization of the amount.

Counsel for the Appellant: SRI K.R KAUSHAL KARAN (PARTY IN PERSON)

Counsel for the Respondent No.1: GP FOR MCPL ADMN URBAN DEV

Counsel for the Respondent Nos.2 to 5: SRI P.RADHIVE REDDY SC FOR HMRL

The Court made the following: JUDGMENT

THE HON'BLE SRI JUSTICE P.SAM KOSHY

AND

THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO

WRIT APPEAL.No.342 of 2024

JUDGMENT: *(per Hon'ble Sri Justice P.Sam Koshy)*

Heard Mr. K.R.Kaushal Karan, party-in-person representing the appellant-M/s V.K.A. Constructions and Mr. P.Radhive Reddy, learned Standing Counsel for respondent Nos.2 to 5.

2. The present is a Writ Appeal preferred by the appellant assailing the order dated 14.11.2023 passed in W.P.No.30810 of 2023, wherein, the learned Single Bench has dismissed the writ petition filed by the appellant/petitioner seeking for releasing of the payment for the work executed by the petitioner with the respondents.

3. The claim of the petitioner was based on the certification done by the respondents in the measurement book.

4. The learned Single Judge relying upon the decision of the Hon'ble Supreme Court in the case of the **Director of Agriculture**

v. M.V.Ramachandran[1] and in the case of **Godavarikani Sugar Mills v. The State of Maharashtra**[2], has dismissed W.P.No.30810 of 2023 permitting the petitioner to approach the respondent authorities by submitting explanation to the letter dated 07.02.2022 and the respondent authorities were directed to consider the same and take further action. The learned Single Judge was also of the view that in terms of the agreement entered into between the parties, any dispute exceeding Rs.50,000/- has to be adjudicated upon by approaching the Civil Court concerned. Aggrieved by the decision of the learned Single Judge, the instant writ appeal has been filed.

5. The contention of the party-in-person is that there is a clear certification for the work done by the officers of the respondent department itself. In addition, the work was also inspected by a team of committee from the department of civil engineering under the Osmania University, who had inspected the site and submitted a

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[1] MANU/SC/0824/2023: Civil Appeal No.176 of 2023 dated 17.03.2023

[2] (2011) 2 SCC 439

report on 31.03.2021 proving the execution of the work being satisfied. In the light of the same, the party-in-person relying upon the judgment of the Hon'ble Supreme Court in the case of **M/s. Gas Authority of India Ltd v. M/s Indian Petrochemicals Corp. Ltd. & Ors.,** in Civil Appeal Nos.3504-3505 of 2010 decided on 08.02.2023 contended that there does not seem to be any dispute on the work having been executed by the petitioner and the same having been not satisfied. Thus, the claim of the petitioner, particularly in the teeth of the certification done by the officers of the Municipal Department becomes admitted dues and since it is admitted dues, the same could not be granted invoking the writ jurisdiction under Article 226 of the Constitution of India, particularly since there is no dispute of the petitioner having not executed the said work and not being entitled for the payment for the work so executed.

6. Having heard the contentions put forth on either side and on perusal of the record, the admitted factual matrix of awarding of the work to the petitioner and the petitioner having executed the

said work, what is in dispute is to the aspect as to whether the petitioner has adhered himself to the conditions so mentioned in the agreement entered into between the parties for the execution of the said work. At the first instance, the appellant was not in a position to show the original invoices of the purchase of bitumen, as the requirement of the original bill is mandatory in terms of the Clause 102 b (i) (ii).

7. Though the party-in-person/appellant submits that the bill invoices had in fact been obtained and submitted to the department, there does not seem to be any enjoyment of the original having been submitted. The appellant submits that he has a second copy of the same which he has already submitted to the Department. Another aspect which needs to be appreciated at this juncture is that from the pleadings and the documents available on record, there appears to be couple of correspondences made by the respondent authorities to the petitioner in respect of certain defects which were found in the course of the inspection, pertaining to the work executed by the petitioner. The correspondences made in this

regard are that of 26.03.2021, 06.07.2021, 12.01.2022 and lastly 07.02.2022.

8. A plain reading of the contents of these four correspondences also forces this Bench to draw an inference that the claim raised by the petitioner cannot be said to be admitted dues or the payment to have been withheld without any reasons. The documents along with the petition and the agreement entered into between the parties would clearly indicate that certain due formalities have to be completed before the respondent authorities could process the bill for releasing of payment. It appears that it is these formalities whatever be the compelling circumstances then prevailing that seems to have left unfulfilled by the petitioner. In the absence of completion of the formalities as is required, we are of the considered opinion that ordering for releasing of the payment for the work executed by invoking the writ jurisdiction under Article 226 of the Constitution of India would not be sustainable.

9. Learned Single Bench itself has reserved the right of the appellant to approach the respondent authorities by ventilating his

grievances by responding to the last notice dated 07.02.2022 and there was also a further direction to the respondent authorities to consider such response that the petitioner makes, so far as his claim is concerned.

10. Given the said view taken by the learned Single Bench, more particularly, considering the fact that the claim of the appellant arises out of pure contractual obligation, we are of the considered opinion that a writ petition under Article 226 of the Constitution of India for redressal of civil liability may not be sustainable. Thus, reserving the liberty granted to the appellant by the learned Single Bench, the present Writ Appeal accordingly stands disposed of.

11. At this juncture, we would only make a further observation that the liberty granted to the appellant to approach the respondent authorities pursuant to the correspondence dated 07.02.2022 would not preclude him from availing other remedies as is available to him in terms of the agreement entered into between the parties. The non-entertainment of the writ petition and the present writ appeal

should not come in the way of the respondent authorities in entertaining the claim of the petitioner. No order as to costs.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

SD/-I. NAGALAKSHMI
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Municipal Administration and Urban Development Department, Telangana Secretariat, Hyderabad.
2. The Managing Director, Hyderabad Metro Rail Limited, Rasoolpura, Begumpet, Hyderabad - 500016.
3. The Special Projects Officer / Superintending Engineer, Hyderabad Metro Rail Limited, Rasoolpura, Begumpet, Hyderabad - 500016.
4. The Projects Officer / Executive Engineer, Hyderabad Metro Rail Limited, Rasoolpura, Begumpet, Hyderabad - 500016.
5. The Sub Divisional Officer / Deputy Executive Engineer, Hyderabad Metro Rail Limited, Rasoolpura, Begumpet, Hyderabad - 500016.
6. One CC to SRI P.RADHIVE REDDY SC FOR HMRL [OPUC]
7. 00One CC to SRI K.R KAUSHAL KARAN (PARTY IN PERSON) Advocate [OPUC]
8. Two CCs to GP FOR MCPL ADMN URBAN DEV ,High Court for the State of Telangana. [OUT]
9. Two CD Copies

KKS
GJP

HIGH COURT

DATED:22/01/2025



JUDGMENT

WA.No.342 of 2024

DISPOSING OF THE WRIT PETITION WITHOUT COSTS

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5-13
1/4/25