

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

WRIT PETITION No.10597 of 2023

ORDER:

The petitioner has undertaken various contracts for Construction of community halls & Providing infrastructure facilities to the community hall in Chodavaram. Earnest money deposits and security deposits were deducted in the course of payment of running bills. These amounts were to be returned upon completion of the contract. The contract stipulated that the earnest money deposit and security deposit would be returned after elapse of 3+24 months.

3. In the present case, the petitioner has completed their contracts in the years 2016 itself. However, the earnest money deposits and security deposits are not being released. Aggrieved by the non release of these funds, the petitioner has approached this Court, by way of the present Writ Petition.

4. The learned Government Pleader for Irrigation, on instructions, submits that the earnest money deposits and security deposits are to be released only upon finalisation of

the bills of the contractors and as the bills of the petitioner has not yet been finalised, the deposits were not being released.

5. The learned Government Pleader would contend, on the terms of the agreement that the EMD and security deposits was not paid by the petitioner directly. They were deducted from the running bills. He would further submit that the terms of the agreement stipulate that the said deposits are to be retained by the employer for a period of 3+24 months which would mean that the employer is entitled to retain the deposits for a period of 27 months from the date of deduction.

6. A perusal of the agreement shows that the period of 3+24 months has been fixed as defect liability period. This would mean that the period of 27 months is to be calculated from the date of completion of the work. In such circumstances, the said period of 27 months has elapsed long back as the contracts have been completed in the years 2016 itself. In such circumstances, the question of the deposits being retained by the respondents would not arise.

7. Consequently, this Writ Petition is disposed of directing the respondents to return the security deposits and earnest money deposits retained by the respondents, within a period of eight weeks from the date of receipt of this order.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

04.05.2023
BSM/DSV

R. RAGHUNANDAN RAO, J.

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