

**HON'BLE SRI JUSTICE GODA RAGHURAM**

**W.P.NO. 7904 OF 1997**

**DATED: 31.1.2007**

Between:

S. Chennama Naidu

... Petitioner

and

The Executive Engineer, Irrigation  
Department, Tirupati and another

...

Respondents

**HON'BLE SRI JUSTICE GODA RAGHURAM**

**W.P.NO.7904 OF 1997**

**ORAL ORDER:**

Heard the learned counsel for the respective parties.

The writ petition is filed, seeking the following relief.

*“... to issue a writ order or direction, more particularly in the nature of writ of Mandamus directing the respondent No.1 to pay an amount of Rs.1,48,000/- being the amount due and liable to pay to the petitioner under the final bill for the works executed by the petitioner in the Department of 1<sup>st</sup> respondent in Tirupati Division, Chittoor District.”*

**The case of the petitioner:**

A). The petitioner is a registered contractor executing works for the Public Works Department. Under C.R. Agreement No.129/92-93, he executed a work for the 2<sup>nd</sup> respondent within the stipulated time i.e. by 30.3.1994. Final bills were paid and the petitioner also withdrew the security deposit in respect of the said works. The said agreement therefore came to an end as early as on 30.3.1994.

B). He is executing certain works under the 1<sup>st</sup> respondent. While so, the 2<sup>nd</sup> respondent has issued a demand notice by letter dated 7.5.1995, received by the petitioner on 25.6.1995, seeking to recover a sum of Rs.66,146/- from the petitioner, on the alleged ground that there were certain defects in the execution of the earlier works. The petitioner gave a reply on 1.7.1995. Thereafter, the 2<sup>nd</sup> respondent wrote to all the Executive Engineers in Prakasam, Nellore and Chittoor Districts, intimating them that in case the petitioner was executing any works under their control, the amount should be recovered. This was by the letter dated 10.7.1995.

C). Challenging the communication dated 10.7.1995 issued by the 2<sup>nd</sup> respondent, the petitioner filed W.P.No.6272 of 1996. By an order dated 19.9.1996, this court directed the 2<sup>nd</sup> respondent to consider the objections of the writ petitioner and pass appropriate orders, after affording an opportunity. The petitioner then approached the 2<sup>nd</sup> respondent and lodged his objections. There was no response. The petitioner was then compelled by notice dated 11.3.1997, to call upon the 1<sup>st</sup> respondent to pay the final bill of Rs.1,48,000/- for the works executed.

D). However, the 2<sup>nd</sup> respondent-the Executive Engineer (R & B), Special Division, Gudur, addressed a letter to the 1<sup>st</sup> respondent to recover an amount of Rs.55,869/-. As the amount of Rs.1,48,000/- has not been paid, the writ petition is filed seeking the payment.

The 2<sup>nd</sup> respondent has filed a counter affidavit disputing the petitioner's entitlement to receive the amount of Rs.1,48,000/-. The counter states that the writ petitioner had executed repairs to Naidupeta-Rapur road to Ankavolu Cross Road from Km. 0/0 to 3/0, for an estimate value of Rs.7,30,000/-; the work site was handed over on 22.9.1992; the work was to be completed on or before 21.3.1993. Extension of time was also granted up to 30.3.1994. Final bills were submitted. Since an amount of Rs.10,277/- was due to be recovered from the petitioner, the same was effected and final bills paid to the petitioner on 30.3.1994.

Subsequent to payment of the final bill as above, a letter from the Superintending Engineer dated 3.4.1995 was received, pointing out deficiency in the execution of works by the petitioner, of a value of Rs.66,146/-. The petitioner was issued a show cause notice for refund of the said amount. On 1.7.1995, the petitioner responded, but failed to remit the amount. Therefore, recovery

proceedings were initiated. The counter also states that intimations were sent to the MRO, Balaypalli and RDO, Gudur, seeking statement of properties held by the writ petitioner. Information is received that the petitioner has no properties and recoveries could not be made and therefore recoveries are sought to be made from out of the bills payable to the petitioner from other works.

On the basis of the recoveries initiated by the answering respondent, the 1<sup>st</sup> respondent remitted the amount of Rs.55,869/- to the 2<sup>nd</sup> respondent on 16.9.2000. In the circumstances, no further amount is recoverable from the writ petitioner. No counter affidavit is filed by the 1<sup>st</sup> respondent.

In the circumstances, as the amount of Rs.55,869/-, stated by the 2<sup>nd</sup> respondent to be due from the petitioner, had already been recovered from the amount of Rs.1,48,000/-, claimed by the petitioner to be due from the 1<sup>st</sup> respondent, the writ petition is disposed of directing the 1<sup>st</sup> respondent to consider and compute the balance amount due and payable to the petitioner and pay him expeditiously and in any event within three months from the date of receipt of a copy of this order. No costs.

**Date: 31.1.2007**  
**CVM**

**RAGHURAM, J**

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**GODA**