

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI
(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY THREE



PRESENT

THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO: 9105 OF 2023

Between:

B. Gopal Reddy, S/o. B Bala Venkata Reddy, Aged about 42 years, Occ: Contractor,
R/o. Meerapuram Village, Banagapalli Mandal, Kurnool District.

...PETITIONER

AND

1. The State of AP, Rep. by its Special Chief Secretary, Department of Irrigation (Water Resources Department), Secretariat Buildings, Velagapudi, Amaravathi, Guntur District.
2. The State of Andhra Pradesh, Rep. by its Principal Secretary, Department of Finance and Planning, Secretariat Buildings, Velagapudi, Amaravathi, Guntur District.
3. The Superintendent Engineer, Irrigation Circle, Kurnool, Kurnool District.
4. The Executive Engineer, W.R.D., M.I.Works Division, Nandyal, Kurnool District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ of mandamus or any other appropriate writ or direction declaring the action of the Respondents in not releasing the refund of 7.5% of With held Amount and Earnest Money Deposit amount as Rs.60,330/- (WHA 7.5%) & Rs.20,265/- (EMD) vide M Book No. 3332 MIA, even after completion of defect liability period, refund payable to the petitioner in relation to the work i.e., Construction of check dam across Bugga chetla Vagu near Mirapuram (V), Banaganapalli (M) in Kurnool District, vide Agreement No. 664/2017-18, dated 29.05.2017 is questioned, as the same is illegal, arbitrary and consequently direct the respondents refund of 7.5percent of With held Amount and Earnest Money Deposit amount s as Rs.60,330/- (WHA 7.5%) & Rs.20,265/- (EMD) vide M Book No. 3332 MIA with interest @24% per annum for the delayed amount to the petitioner in respect of above-mentioned work forthwith.

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased please to direct the respondents to release the refund of 7.5percent of With held

Amount and Earnest Money Deposit amount as Rs.60,330/- (WHA 7.5%) & Rs.20,265/- (EMD) vide M Book No. 3332 MIA, with interest @24% per annum for the delayed amount to the petitioner in respect of work i.e., Construction of check dam across Bugga chetla Vagu near Mirapuram (V), Banaganapalli (M) in Kurnool District, vide Agreement No. 664/2017-18, dated 29.05.2017, forthwith, pending disposal of the Writ Petition.

Counsel for the Petitioner : SRI BATHALA RAMESH

**Counsel for the Respondent Nos.1, 3 & 4 : GP FOR IRRIGATION & COMMON
AREA DEVELOPMENT**

Counsel for the Respondent No.2 : GP FOR FINANCE AND PLANNING

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION No.9105 of 2023

ORDER:

1. The present petition is filed aggrieved by the action of the respondent in not releasing the refund of Earnest Money Deposit (EMD) and 7.5% of withheld amounts i.e., Rs.60,330/-(WHA) & Rs.20,265/- (EMD) respectively.

2. Learned counsel for the petitioner submits that the petitioner has entered into various agreements with the respondents for the works in Kurnool District and he completed the work as per the agreements. Execution of work was entered into measurement book prepared by the respondent authorities without noticing any defects. The amount for execution of work was paid to the petitioner, but the earnest money deposit and withheld amount was not released even after completion of defect liability period. The petitioner has approached the respondents several times for reimbursement of the earnest money deposit and withheld amount. As the respondents have failed to release the earnest money deposit and withheld amount, the petitioner is seeking a direction to the respondent authorities for release of earnest money deposit and withheld amount.

3. Learned Government Pleader submitted that the respondents are ready to pay the amounts due to the petitioner.

4. Heard the learned counsel for the petitioner and learned counsel for the respondents.

5. Keeping in view facts and circumstances of the case, submissions made by both learned counsel and on perusing the material placed on record, as there is no justification in withholding the earnest money deposit and withheld amount, even after completion of defect liability period and completion of the work allotted by the respondents, this Court deems it appropriate to direct the respondents to release the earnest money deposit and withheld amount due to the petitioner for the last several months.

6. In the result, this Writ Petition is disposed of, directing the respondents to release the earnest money deposit and withheld amount of Rs.60,330/- & Rs.20,265/- to the petitioner within a period of four (04) weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

7. Consequently, Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

Sd/- M. PRABHAKAR RAO
ASSISTANT REGISTRAR

//TRUE COPY//


SECTION OFFICER

To,

1. The Special Chief Secretary, Department of Irrigation (Water Resources Department), State of AP, Secretariat Buildings, Velagapudi, Amaravathi, Guntur District.
2. The Principal Secretary, Department of Finance and Planning, State of Andhra Pradesh, Secretariat Buildings, Velagapudi, Amaravathi, Guntur District.
3. The Superintendent Engineer, Irrigation Circle, Kurnool, Kurnool District.
4. The Executive Engineer, W.R.D., M.I.Works Division, Nandyal, Kurnool District.
5. One CC to Sri Bathala Ramesh, Advocate [OPUC]
6. Two CCs to GP for Irrigation & Common Area Development, High Court of Andhra Pradesh. [OUT]
7. Two CCs to GP for Finance & Planning, High Court of Andhra Pradesh. [OUT]
8. Three C.D. Copies.

Cnr
SK

A.D. Fau

HIGH COURT

DATED:24/11/2023

ORDER

WP.No.9105 of 2023

*12 copies
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20/2/24*

**DISPOSING OF THE W.P.
WITHOUT COSTS**

