

[3418]

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**MONDAY, THE TWENTY EIGHTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO**

WRIT APPEAL NO: 139 OF 2024

Writ Appeal under clause 15 of the Letters Patent Appeal Preferred Against the Order Dated 21/12/2023, Passed in W.P. No. 13266 of 2023 on the file of the High Court.

Between:

1. The Union of India, Ministry of Railways, Rep. by its Secretary, New Delhi.
2. South Central Railways, Rep. by its General Manager, Rail Nilayam, III Floor, Secunderabad, Telangana.
3. South Central Railways, Divisional Railway Manager, Office of Divisional Railway Manager, Guntakal-Andhra Pradesh-,515 801.
4. South Central Railways, Senior Divisional Engineer, Coordination Office of the Divisional Railway Manager, Guntakal-Andhra Pradesh- 515 801.

...APPELLANTS

AND

1. M/s. Sanyu Infra Projects Private Limited, Rep. by its Managing Director Sri P. Sudarshan Reddy, Office at Flat No. 202, Plot No.124, Phase-2, Teja Apartments, Kavuri Hills, Madhapur, Hyderabad.

.....RESPONDENT/WRIT PETITIONER

2. M/s Pavithra Constructions, A registered Partnership Firm H. No. 7-624, Surya Nagar Railway Kodur, Kadapa District Andhra Pradesh - 516101 represented by its Managing Partner Bandi Pitchi Reddy
3. M/s S.V. Constructions, 1st Floor 8th Cross, CIL Layout 181 Cholanagar, Herbal, RT Nagar Post Bengaluru - 560032, Karnataka State represented by its Managing Partner M Srinivasula Reddy
4. M/s M.V.V. Satyanarayana, 6-1-136/M. Meher Ratna Complex Balaram Colony, Walker Town Padmaranagar, Secunderabad - 500025 represented by its Managing Partner. M.V.V. Satyanarayana

**(Respondent No.2 is impleaded vide IA No. 3 of 2024
Respondent No.3 is impleaded vide IA No. 5 of 2024
Respondent No.4 is impleaded vide IA No. 7 of 2024
as per Court Order dated 18.04.2024 in WA No.139 of 2024)**

...RESPONDENTS/RESPONDENTS

IA NO: 1 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 grant stay of the operation of the order dt. 21/12/2023 passed in W.P.No.13266 of 2023, pending disposal of Writ Appeal

IA NO: 8 OF 2024

Between:

M/s. Sanyu Infra Projects Private Limited, Rep. by its Managing Director Sri P. Sudarshan Reddy, Office at Flat No. 202, Plot No.124, Phase-2, Teja Apartments, Kavuri Hills, Madhapur, Hyderabad.

....PETITONER /RESPONDENT No.1

AND

1. The Union of India, Ministry of Railways, Rep. by its Secretary, New Delhi.
2. South Central Railways, Rep. by its General Manager, Rail Nilayam, III Floor, Secunderabad, Telangana.
3. South Central Railways, Divisional Railway Manager, Officer, South Office-Divisional Engineer, Guntakal Andhra Pradesh.
4. South Central Railways, Senior Divisional Engineer, Coordination – Coordination Office of the Divisional Railway Manager, Guntakal Andhra Pradesh.

...RESPONDENTS/APPELLANTS

5. M/s Pavithra Constructions, Rep by its Managing Partner Bandi Pitchi Reddy, H.No 7624 , Surya Nagar Railway Kodur, Kadapa District, Andhra Pradesh.
6. M/s S.V. Constructions, Rep by its Managing Partner M. Srinivasula Reddy, 1st Floor, 8th Cross, CIL Layout 181, Cholanagar Herbal, RT Nagar Post, Karnataka State, Bengaluru.
7. M/s M.V.V. Satyanarayana Rep by its Managing Partner MVV Satyanarayana, 61136/M, Meher Ratna Complex Balaram Colony, Walker Town, Padmarao Nagar Secunderabd.

.....RESPONDENTS/RESPONDENTS

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 vacate the orders passed in WA. No. 139 of 2024 dated 13.09.2024 in the interest of justice

**Counsel for the Appellant: SRI. B. NARASIMHA SHARMA,
ADDITIONAL SOLICITOR GENERAL OF INDIA REP
SRI K. ARVIND KUMAR, CENTRAL GOVERNMENT
Counsel for the Respondent No.1: SRI B. MAYUR REDDY,
SENIOR COUNSEL REP SRI SATHVIK MAKUNUR**

Counsel for the Respondent Nos.2to4: SRI PRASAD RAO VEMULAPALLI

The Court made the following: JUDGMENT

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SRI JUSTICE J. SREENIVAS RAO**

WRIT APPEAL No. 139 of 2024

JUDGMENT: (per the Hon'ble the Chief Justice Alok Aradhe)

Mr. B. Narasimha Sharma, learned Additional Solicitor General of India represents Mr. K. Arvind Kumar, learned counsel for the appellants.

Mr. B. Mayur Reddy, learned Senior Counsel represents Mr. Sathvik Makunur, learned counsel for respondent No.1.

Mr. Prasad Rao Vemulapalli, learned counsel appears for respondent Nos.2 to 4.

2. With the consent of the learned counsel for the parties, the Writ Appeal is heard finally.

3. In this intra court appeal, the appellants have assailed the validity of the order dated 21.12.2023 passed by the learned Single Judge, by which Writ Petition No.13266 of 2023 preferred by respondent No.1 has been allowed and the order dated 24.04.2023 passed by the Senior Divisional Engineer has been set aside. The learned Single Judge has also quashed the notice inviting tender dated 28.04.2023 for proposed

construction of Road under Bridge (Subway) in Guntakal Division in the State of Andhra Pradesh.

4. Facts giving rise to filing of this appeal briefly stated are that the Railway Board had issued a notice on 21.04.2020 by which the tenders were invited for construction of Road under Bridge (Subway) in Guntakal Division in the State of Andhra Pradesh. Respondent No.1 was awarded the contract. However, according to the appellants, respondent No.1 did not even commence the work within a period of seven (7) months. Accordingly, an order of termination dated 04.05.2022 was passed.

5. Respondent No.1 challenged the aforesaid order of termination of contract awarded to it in Writ Petition, namely, W.P.No.23748 of 2022 which was dismissed by the learned Single Judge of this Court *vide* order dated 18.01.2023. Being aggrieved, the respondent No.1 had filed a Writ Appeal, namely, W.A.No.301 of 2023. The Division Bench of this Court *vide* judgment dated 10.03.2023 disposed of the aforesaid Writ Appeal with the following directions.

“17. Having said that we are of the view that appellant should be relegated to the forum of respondent No.4. Now that appellant is aware of the reasons for termination of contract, let the appellant appear before respondent No.4 on 20.03.2023 at 11:00 a.m. whereafter respondent No.4 shall take a fresh decision in accordance with law. All contentions are kept open. Needless to say, if the appellant is aggrieved by any decision that may be taken by respondent No.4, it will be open to the appellant to avail the remedy as provided in clause 64 of the Standard General Conditions of Contract.

18. This disposes of the writ appeal. However, there shall be no order as to costs.”

6. In compliance with the aforesaid judgment passed by the Division Bench of this Court, after hearing respondent No.1, the Senior Divisional Engineer by an order dated 24.04.2023 once again took a decision to terminate the contract of respondent No.1.

7. The aforesaid order was challenged by respondent No.1 in a Writ Petition, namely, W.P.No.13266 of 2023. It is not in dispute that in pursuance of the notice inviting tender issued on 28.04.2023, by an order dated 30.10.2023, the contract in question was allotted to the third parties. The aforesaid third parties were not impleaded in the aforesaid Writ Petition. The learned Single Judge by an order dated 21.12.2023 quashed

the order dated 24.04.2023 and the subsequent notice inviting tender dated 28.04.2023. In the aforesaid Writ Petition, admittedly, the firms to whom the contract was awarded were neither impleaded nor heard.

8. We have heard the learned counsel for the parties.
9. The learned Senior Counsel for respondent No.1 submits that the Division Bench of this Court *vide* order dated 10.03.2023 passed in Writ Appeal No.301 of 2023 had granted liberty to respondent No.1 to take recourse to the remedy provided under Clause 64 of the Standard General Conditions of Contract. It is further submitted that respondent No.1 is ready and willing to take recourse to the remedy provided under Clause 64 of the Standard General Conditions of Contract and that the aforesaid order passed by the learned Single Judge be set aside.
10. The aforesaid prayer has not been opposed by the learned Additional Solicitor General of India and the learned counsel for respondent Nos.2 to 4.

11. In the peculiar facts and circumstances of the case and in view of prayer made by the learned Senior Counsel for respondent No.1, the order dated 21.12.2023 passed by the learned Single Judge, in Writ Petition No.13266 of 2023 is set aside. However, liberty is reserved to respondent No.1 to take recourse to the remedy prescribed under Clause 64 of the Standard General Conditions of Contract. It is open for the parties to raise all contentions which are available to them in law.

12. Accordingly, the Writ Appeal is disposed of.

Miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

SD/- I. NAGALAKSHMI
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Secretary, Union of India, Ministry of Railways, New Delhi.
2. The General Manager, South Central Railways, Rail Nilayam, III Floor, Secunderabad, Telangana.
3. The Divisional Railway Manager South Central Railways, Office of Divisional Railway Manager, Guntakal-Andhra Pradesh-515 801.
4. The Senior Divisional Engineer, South Central Railways, Coordination Office of the Divisional Railway Manager, Guntakal-Andhra Pradesh- 515 801.
5. The Railway Manager, South Central Railways, Divisional Officer, South Office-Divisional Engineer, Guntakal Andhra Pradesh.
6. The Senior Divisional Engineer, South Central Railways, Coordination - Coordination Office of the Divisional Railway Manager, Guntakal Andhra Pradesh.
7. One CC to SRI. K. ARVIND KUMAR, CENTRAL GOVERNMENT COUNSEL [OPUC]
8. One CC to SRI. SATHVIK MAKUNUR Advocate [OPUC]
9. One CC to SRI. PRASAD RAO VEMULAPALLI, Advocate [OPUC]
10. Two CD Copies

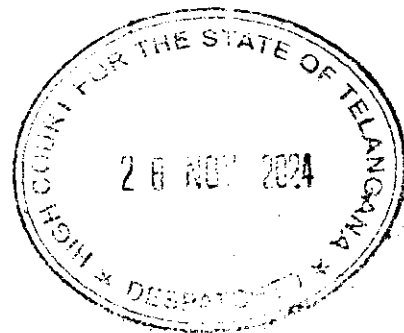
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HIGH COURT

DATED:28/10/2024

ORDER

WA.No.139 of 2024



**DISPOSING OF THE WRIT APPEAL
WITHOUT COSTS**

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28/11/24