

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

WEDNESDAY, THE 16TH DAY OF SEPTEMBER 2015/25TH BHADRA, 1937

RSA.No. 779 of 2007 ()

(AGAINST THE JUDGMENT AND DECREE IN AS.NO. 7/2006 OF ADDL.DISTRICT COURT, NORTH PARAVUR DATED 18-08-2006)

(AGAINST THE JUDGMENT AND DECREE IN OS.NO. 91/2001 OF MUNSIF COURT, PERUMBAVOOR DATED 20-10-2005)

APPELLANT/RESPONDENT/PLAINTIFF:

**K.G. SURENDRAN,
GOVERNMENT CONTRACTOR, S/O. GOPALAN,
KOLLAMMAVUKUDY HOUSE, ALLAPRA P.O.,
PERUMBAVOOR.**

BY ADV. SRI.N.ANILKUMAR

RESPONDENT(S)/APPELLANTS/DEFENDANTS:-

- 1. KERALA STATE,
REPRESENTED BY THE DISTRICT COLLECTOR,
ERNAKULAM CIVIL STATION,
KAKKANAD P.O., ERNAKULAM.**
- 2. THE DEPUTY CONSERVATOR OF FORESTS,
DIVISIONAL FOREST OFFICE, MALAYATOOR DIVISION,
KODANADU P.O., ERNAKULAM DISTRICT.**
- 3. RANGE OFFICER,
KODANADU RANGE, FOREST OFFICE, KODANADU P.O.,
ERNAKULAM DISTRICT.**

BY GOVERNMENT PLEADER SMT. DEEPA.G.N

**THIS REGULAR SECOND APPEAL HAVING COME UP FOR ADMISSION
ON 16-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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P.B.SURESH KUMAR, J.

R.S.A.No.779 of 2007

Dated this the 16th day of September, 2015

JUDGMENT

The plaintiff in a suit for damages is the appellant.

2. The plaintiff is a Government contractor. He submitted bid for the execution of a public work pursuant to a tender notice published by the defendants. The bid of the plaintiff was the lowest among the bids received by the defendants pursuant to the tender notice. According to the plaintiff, since the bid submitted by him was the lowest, he made all arrangements for the execution of the work incurring an expenditure of Rs.16,000/-. The work, however, was not awarded to the plaintiff. Instead, the work was awarded to another contractor. According to the plaintiff, he is therefore entitled to damages to the tune of

Rs.16,000/- towards the pecuniary loss caused to him for making necessary arrangements for the execution of the work and damages to the tune of Rs.10,000/-towards mental agony. The defendants contested the suit. According to them, there was no concluded contract between the plaintiff and the defendants and therefore the plaintiff is not entitled to claim damages from them on any grounds, whatsoever. The trial court found that the plaintiff was not entitled to get the work awarded to him on the sole ground that he is the lowest tenderer. Nevertheless, the trial court granted to the plaintiff a decree for recovery of a sum of Rs.10,000/- from the defendants by way of damages on the ground that the plaintiff was not informed the decision to award the work to another contractor. The defendants challenged the decision of the trial court in appeal. The appellate court found that since there was no concluded contract between the parties, the plaintiff is not entitled to claim damages from the defendants on any grounds

whatsoever. Consequently, the suit was dismissed by the appellate court reversing the decision of the trial court. The plaintiff who is aggrieved by the decision of the appellate court has thus come up in this second appeal.

3. Heard the learned counsel for the appellant.

4. There cannot be any dispute to the fact that the bid submitted pursuant to a tender notice is only an offer to execute the work. It is only when the bid is accepted by the person inviting the offers, a concluded contract would come into effect. In the instant case, the plaintiff has no case that he has been given any communication by the defendants accepting the bid submitted by him. In other words, there was no concluded contract between the parties in relation to the work in respect of which the tender was invited. Merely for the reason that the plaintiff happened to be the lowest tenderer, he has no right to claim that the work should be awarded to him. If the plaintiff has no right to get the work awarded to him, he cannot be heard to contend that he had

incurred expenditure in contemplation of the award of the work. Since he has no right to get the work allotted to him, there is no scope for contending that there was mental agony as well. In that view of the matter, there is absolutely no merit in the appeal and the same is accordingly dismissed *in limine*.

P.B.SURESH KUMAR, JUDGE.

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