

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P. CHALY

THURSDAY, THE 6TH DAY OF AUGUST 2015/15TH SRAVANA, 1937

W.A.No. 2258 of 2012 () IN WP(C).28591/2012

AGAINST THE JUDGMENT IN WP(C) 28591/2012 of HIGH COURT OF KERALA DATED 19-12-2012.

APPELLANT/PETITIONER:

SHAJI MATHEW,
ASARIPARAMBIL HOUSE,
PIRAVOM.P.O, ERNAKULAM-686 664.

BY ADVS.SRI.ASWIN GOPAKUMAR
SRI.PRAVEEN.H.
SRI.ANWIN GOPAKUMAR
SMT.KALA G.NAMBIAR
SRI.K.AMAL NATH NAIK
SMT.R.ANJANA

RESPONDENT(S)/RESPONDENTS:

1. HINDUSTAN NEWSPRINT LIMITED,
NEWSPRINT NAGAR, KOTTAYAM DISTRICT, PIN-686 616
REPRESENTED BY ITS CHAIRMAN-CUM-MANAGING DIRECTOR
SRI.M.V.NARASIMHA RAO.
2. THE DIVISIONAL FOREST OFFICER,
DIVISIONAL FOREST OFFICE, MALAYATTOOR, KODANAD.P.O.,
PIN-683 544.
3. GOPINATHAN.K.
THE HOD (FDP), (BADGE NO. 1145),
HINDUSTAN NEWSPRINT LIMITED, NEWSPRINT NAGAR,
KOTTAYAM DISTRICT, PIN-686 616.

R1 & R3 BY SRI.V.KRISHNA MENON, STANDING COUNSEL.
R2 BY SENIOR GOVERNMENT PLEADER, SRI. P. FAZIL

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 06-08-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

P.T.O.

**ANTONY DOMINIC
&
SHAJI P. CHALY, JJ.**

W.A.No.2258 of 2012

Dated this the 6th day of August, 2015

JUDGMENT

Antony Dominic, J.

The petitioner in W.P.(C) No.28591 of 2012 has filed this appeal, challenging the judgment dated 19.12.2012 of the learned Single Judge.

2. We heard the learned counsel for the appellant and the learned Standing Counsel for Respondents 1 and 3 and the learned Senior Government Pleader appearing for the 2nd Respondent.

3. The appellant was awarded Exts.P1 and P2 work orders for clear felling, collection, stacking and transportation of specified quantities of pulp wood from the "2005 Kottappara Captive Plantation" situated in Kodanad Forest Range. The work orders were finally terminated by Ext.P10 notice in the writ petition. The challenge was against Ext.P10. Consequential directions were also sought for. By the judgment under appeal, the learned Single Judge took the view

that having regard to the disputed questions of facts involved, the writ petition filed under Article 226 of the Constitution of India will not be maintainable, and on that basis, without prejudice to the remedies available, the writ petition was dismissed. It is this judgment which is under challenge.

4. Although the learned counsel for the appellant reiterated the plea regarding the alleged illegality of Ext.P10, from the facts that were pleaded and the materials that were produced, we find that the issue raised being one arising out of a contract and regarding the validity of the termination of the said contract, necessarily, adjudication of disputed questions of fact would arise. Such a dispute cannot be properly resolved in a proceeding under Article 226 of the Constitution and therefore the view taken by the learned Single Judge cannot be faulted.

5. Even apart from that, the contract was for the period up to 31.12.2012 and the said contract period has already expired and with the permission of this Court, the remaining portion of the work was awarded by the Company to another contractor. Therefore, at this distance of time, at best, the appellant can have a claim for damages. For that

relief also, the remedy available to the appellant is before the Civil Court only.

In such circumstances, we do not find any reason to interfere with the judgment under appeal. Appeal is dismissed, leaving it open to the appellant to seek the remedy before the appropriate Civil Court.

Sd/-

**ANTONY DOMINIC
JUDGE**

Sd/-

**SHAJI P. CHALY
JUDGE**

//true copy//

P.S. to Judge

St/-