

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR.JUSTICE K.HARILAL**

TUESDAY, THE 13TH DAY OF JANUARY 2015/23RD POUSHA, 1936

WA.No. 64 of 2015

**AGAINST THE JUDGMENT IN WP(C) 14163/2014 of HIGH COURT OF KERALA DATED
09-12-2014**

APPELLANT(S)/RESPONDENT NO.1:

**THE K.T.D.C. HOTELS & RESORTS LTD.
REPRESENTED BY ITS MANAGING DIRECTOR, MASCOT SQUARE,
THIRUVANANTHAPURAM-695033.**

BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL, SC, KTDC

RESPONDENT(S)/PETITIONER, 2ND RESPONDENT & ADDL.R3:

- 1. JAJ EQUIPMENT INDUSTRIES,
REPRESENTED BY ITS MANAGING PARTNER, JEEVAN C.I.,
MAJOR INDUSTRIAL ESTATE, OLLUR P.O.,
THRISSUR DISTRICT-680306.**
- 2. THE KITCO LTD.,,
REPRESENTED BY ITS MANAGING DIRECTOR, PB NO.4407,
FEMITH'S PUTHIYA ROAD, NH BYE PASS,
VENNALA, COCHIN-682028.**
- 3. THE STATE OF KERALA
REPRESENTED BY THE SECRETARY TO THE
TOURISM DEPARTMENT, THIRUVANANTHAPURAM-695001.**

**R3 BY SR. GOVT. PLEADER SRI.RAMAPRASAD UNNI
R1 BY SMT.P.K.PRIYA
R2 BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR
R2 BY ADV. SRI.P.GOPINATH
R2 BY ADV. SRI.P.BENNY THOMAS
R2 BY ADV. SRI.NITHIN GEORGE**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 13-01-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

OKB

THOTTATHIL B. RADHAKRISHNAN & K.HARILAL, JJ.

Writ Appeal No.64 of 2015

Dated this the 13th day of January, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

We have heard the learned Standing Counsel for the appellant KTDC, the learned counsel for the 2nd respondent KITCO, the learned Senior Government Pleader and the learned counsel for the 1st respondent writ petitioner.

2. KITCO is a consultant for a work of KTDC. The writ petitioner was given the contract for that work. Alleging that the amounts were to be released, the writ petition was filed. There was an interim order during the course of the writ petition, on 26/8/2014, to have a joint meeting of KTDC, KITCO and the writ petitioner. The meeting was accordingly convened by KTDC on 16/9/2014. The Minutes of that meeting was produced before the learned single Judge by KTDC on 18/9/2014. It reads as follows:

“It is decided that the consultant and the contractor shall reconcile the actual amount due to the Contractor M/s. JAJ Equipments at the

earliest, not later than two weeks from today. Thereafter, KTDC shall take up with the Government a request to release an interim payment to KITCO for settling all outstanding payment due to various contractors and vendors as per statement of account submitted by KITCO.”

3. The facts, that the aforesaid meeting was held and the aforequoted are the Minutes, are not in dispute. That being so, the learned single Judge issued the impugned judgment, which is nothing but giving effect to the decision of the three parties, which met and drew up the aforesaid resolutions. The learned single Judge has also left open all issues in the writ petition. This means that there was no adjudication of any dispute between the parties and the parties were left to enjoy the result of their own decision, which is reflected in the Minutes of the meeting dated 16/9/2014. In this view of the matter, we see no ground for KTDC to turn round to challenge that judgment on the specious premise that further amounts are outstanding from KITCO to KTDC and, therefore, KTDC does not have to make any payment. If KTDC does not need the permission of Government, or any Department in Government to release the funds, it is upto it to release such amount even without obtaining any sanction. We see no ground to interfere with the impugned judgment,

which does not result in adjudication or decision on any question of fact or of law to be applied in any other case. We further clarify that no issues between the parties are decided in this writ appeal as well. The time granted by the learned single Judge to comply with the directions will run from today.

In the result, this writ appeal is dismissed.

Sd/-

THOTTATHIL B. RADHAKRISHNAN, JUDGE

Sd/-

K.HARILAL, JUDGE

okb.