

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

WP(C).No. 1038 of 2012 (D)

PETITIONER(S) :

**A.T. REJIMON, AGED 44 YEARS,
ARAMPILLIL HOUSE, KADACKANAD P.O., KOLENCHERRY,
ERNAKULAM DISTRICT-682 311.**

**BY ADVS.SRI.SAJEEV KUMAR K.GOPAL
SRI.MATHEW P.PAUL**

RESPONDENT(S) :

- 1. ROADS AND BRIDGES DEVELOPMENT CORPORATION OF KERALA LTD.
2ND FLOOR, PREETHI BUILDING, M.V.ROAD,
PALARIVATTOM, KOCHI-682 025,
REPRESENTED BY ITS MANAGING DIRECTOR.**
- 2. THE MANAGING DIRECTOR,
ROADS AND BRIDGES DEVELOPMENT CORPORATION OF KERALA LTD.,
2ND FLOOR, PREETHI BUILDING, M.V.ROAD,
PALARIVATTOM, KOCHI-682 025.**

BY ADV. SRI.M.VIJAYA KUMAR, S.C

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 05-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE COPY OF THE REPRESENTATION DATED 09.02.2011
SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT.**

**EXHIBIT P2: TRUE COPY OF THE NEWS ITEM APPEARED IN
MATHRUBHOOMI DAILY DATED 16/09/2011.**

**EXHIBIT P3: TRUE COPY OF THE LAWYER NOTICE DURING MAY, 2011
SENT BY THE PETITIONER TO GRANT REDUCTION IN TOLL
FREE.**

**EXHIBIT P4: TRUE COPY OF THE REPRESENTATION SUBMITTED BY
THE PETITIONER ON 05/01/2012 BEFORE THE HON'BLE
MINISTER.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.1038 of 2012

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Dated this the 5th day of February, 2015

JUDGMENT

Alleging that the respondents are proceeding to enforce the bank guarantee against the petitioner without considering Ext.P4, the petitioner has come up before this Court.

2. The first respondent corporation invited competitive bids from various parties to collect user fee on contract basis from road over bridge at Nandi Bazar, Kozhikode. The petitioner participated in the tender process and he was the highest bidder. The bid was for ₹2,16,00,000/-. An agreement was executed by the petitioner with the respondents on 24.1.2011. As per the payment schedule, ₹9,18,000/- should be paid on every 15 days. The petitioner also produced a bank guarantee for ₹ 55,08,000/- executed by the Federal Bank, Kolenchery branch which is valid from 24.1.2011 to 24.1.2012 as security for the due fulfillment by the petitioner as per the terms and conditions of the agreement.

3. The petitioner alleges that due to the pathetic condition of the road, around 60% of the vehicle deviated the route and therefore, the petitioner sustained heavy loss. He further alleges that he submitted repeated representation to adjust the loss with future installments. Ext.P4 is the copy of one of such representation. Out of 24 installments, the petitioner has paid 20 installments. According to the petitioner, the balance can be paid only his claim in Ext.P4 is considered.

As the limited prayer of the petitioner is only for consideration of Ext.P4, the writ petition is disposed of directing the respondents to consider and pass appropriate orders on Ext.P4 after affording the petitioner an opportunity of being heard. The recovery of remaining installments shall be enforced only after this exercise which shall be completed within a period of two months from the date of receipt of a copy of this judgment.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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