

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 17TH DAY OF JUNE 2015/27TH JYAISHTA, 1937

WP(C).No. 601 of 2013 (A)

PETITIONER:

**K.V.VARKEY, KADAMPIL HOUSE,
MECKADAMPU P.O., MUVATTUPUZHA,
ERNAKULAM DISTRICT.**

**BY ADVS.SRI.JOMY GEORGE
SRI.SEBASTIAN THOMAS**

RESPONDENT(S):

- 1. MUVATTUPUZHA MUNICIPALITY,
REPRESENTED BY ITS SECRETARY,
MUNICIPAL OFFICE, MUVATTUPUZHA-686 661.**
- 2. THE SECRETARY,
MUVATTUPUZHA MUNICIPALITY,
MUNICIPAL OFFICE, MUVATTUPUZHA-686 661.**
- 3. THE CHAIRMAN,
MUVATTUPUZHA MUNICIPALITY,
MUNICIPAL OFFICE, MUVATTUPUZHA-686 661.**

BY ADV. SRI.V.M.KURIAN, SC

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 17-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

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APPENDIX

PETITIONER(S) EXHIBITS:

- EXHIBIT P1: TRUE COPY OF THE LIST OF THE WORK DONE BY THE PETITIONER AND THE AMOUNT DUE THEREON, ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P2: TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT ON 7.12.2012.
- EXHIBIT P3: TRUE COPY OF THE TENDER NOTICE DATED 26.12.2012 INVITED BY THE 1ST RESPONDENT.
- EXHIBIT P4 : TRUE COPY OF THE INFORMATION DATED 24.4.2012 GIVEN BY THE RESPONDENTS 1 AND 2 TO ANOTHER CONTRACTOR WITH REGARD TO THE PAYMENTS MADE BY THE MUNICIPALITY IN THE YEAR 2012.
- EXHIBIT P5 : TRUE COPY OF THE APPEAL MEMORANDUM IN W.A.NO.2166/2002 FILED BY THE RESPONDENTS THEREIN.
- EXHIBIT P6 : TRUE COPY OF THE JUDGMENT IN W.A.NO.2166/2002 PASSED BY THIS HON'BLE COURT.

IA.NO.6801/2015

- EXT. P4 : TRUE COPY OF THE INVITATION CARD OF THE MARRIAGE.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

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A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.601 of 2013

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Dated this the 17th day of June, 2015

JUDGMENT

The petitioner has approached this Court for getting a direction to release the bill amount for the work done by him.

2. The petitioner, a Government Contractor, alleges that based on various agreements executed with the first respondent, he completed the works. Though the works were completed years' back to the satisfaction of the respondents, the bill amounts were not paid to him till date and at the same time, overlooking the priority of the registration of the bills, the respondents have made payments to the contractors of their choice.

3. The petitioner further alleges that in the meeting convened by the Chairperson of the first respondent, it was assured that steps would be taken for making payment to the contractors. However, no payments were made. In the meanwhile, without clearing the existing arrears, the respondents again invited tenders for new work, without providing any fund and they were trying to

divert the funds. Therefore, the petitioner is seeking for a a direction not to violate the priority of the registration of bills while making the payments and also not to undertake new works other than emergent works without clearing the pending bills. It is with this background, the petitioner has approached this Court.

4. The respondents 1 and 2 have filed a counter affidavit wherein it was contended that the respondent municipality has promptly disbursed the payment for special projects undertaken by the petitioner. It was stated that the municipality is making earnest attempt to clear the pending bills. They further stated that there is no deliberate laches on the part of the municipality in paying the bills submitted by the petitioner and the respondent has not violated the priority of registration of bills in the matter of disbursement of payment of contractors. According to them, the arrears to contractors is only with respect to the work done under the municipality's own fund.

5. The petitioner has filed reply affidavit refuting the contentions in the counter affidavit. Along with the reply the petitioner has produced Ext.P4 information given by respondents 1

and 2 to another contractor with regard to the payments made by the municipality in the 2012. The petitioner states that from the above information, it is evident that the payments made by the municipality are in violation of the date of completion of the work and the priority in the registration of the bills.

6. Heard the learned counsel on both sides.

Considering the nature of the relief sought for and the submissions made by the learned counsel for the petitioner, this writ petition is disposed of directing the respondents to pay of the bill amount submitted by the petitioner 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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