

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 14TH DAY OF OCTOBER 2015/22ND ASWINA, 1937

WA.No. 2242 of 2015 () IN WP(C).12841/2015

AGAINST THE JUDGMENT IN WP(C) 12841/2014 KERALA DATED
13.8.2015

APPELLANT(S)/RESPONDENTS 1 AND 2 :-

1. RAMAPURAM GRAMA PANCHAYATH
REPRESENTED BY ITS SECRETARY, RAMAPURAM BAZAR P.O.,
KOTTAYAM DISTRICT-686 576.
2. SECRETARY
RAMAPURAM GRAMA PANCHAYATH, RAMAPURAM BAZAR P.O.,
KOTTAYAM DISTRICT-686 576.

BY ADV. SRI.P.C.HARIDAS

RESPONDENT(S)/PETITIONER-RESPONDENTS 3 AND 4 :-

1. MATHACHAN KURIEN, AGED 44 YEARS
S/O.KURIEN, RESIDING AT MANGALAMKUNNEL HOUSE
RAMAPURAM BAZAR P.O., KOTTAYAM DISTRICT-686 576.
2. THE STATE OF KERALA
REPRESENTED BY THE UNDER SECRETARY TO THE GOVERNMENT
DEPARTMENT OF DISASTER MANAGEMENT (REVENUE-K)
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
3. THE DISTRICT COLLECTOR,
COLLECTORATE, KOTTAYAM -686 001.

R1 BY ADV. SRI.MANUEL KACHIRAMATTAM

SMT.MERRY GEORGE

R2 & R3 BY SPL.GOVERNMENT PLEADER SMT.GIRIJA GOPAL

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 14-
10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jvt

**ASHOK BHUSHAN, C.J &
A.M. SHAFFIQUE, J.**

W.A. No.2242 of 2015

Dated this the 14th day of October 2015

J U D G M E N T

Shaffique, J.

Respondents 1 and 2, Ramapuram Grama Panchayat, in W.P. (C) No.12841 of 2014 have filed this writ appeal challenging the judgment dated 13.8.2015 in the said writ petition.

2. The writ petition was filed by a Contractor, who had entered into an agreement with the Panchayat to supply drinking water in the locality. The petitioner had supplied water in excess of the quantity as specified in the agreement, as per the request made by the Panchayat. The petitioner contended that there is no dispute regarding the liability to pay. The Panchayat has refused to pay the amount on the ground that they did not have sufficient fund, which is allocated by the State in that regard.

3. The learned Single Judge, after elaborately considering the matter, formed an opinion that there is no dispute by any of the respondents regarding the fact that the petitioner had not supplied water or there is also no dispute regarding the amount calculated by the petitioner. Under such circumstances, a

-: 2 :-

direction had been issued to the 1st and 2nd respondents to effect payment as calculated in Ext.P4 and also in accordance with the terms contained in Ext.P1 agreement, within a period of 45 days.

4. Learned counsel for the appellants, while impugning the aforesaid judgment, submits that the water had been supplied by the petitioner on his own volition and the extended fund was insufficient to meet the claim made by the first respondent and therefore, the appellants cannot be mulcted with such liability.

5. We do not think that the aforesaid approach of the appellants are justifiable. Ext.P1 agreement is admitted. The supply of water is admitted. Even though there was dispute with regard to the excess quantity of water supplied, the same was condoned by the Government. Under such circumstances, the primary obligation is on the part of the Panchayat to effect payment to the first respondent. However, the appellants have a case that it is the State Government, who have to effect payment. It is for the appellants to take up the matter before the State Government and work out their remedy.

Under such circumstances, we are of the view that no error has been committed by the learned Single Judge in allowing

W.A. No.2242 of 2015

-: 3 :-

the writ petition. No grounds are made out to interfere with the judgment of the learned Single Judge. Accordingly, the writ appeal is dismissed.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE

Jvt/16.10.2015