

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 29TH DAY OF SEPTEMBER 2015/7TH ASWINA, 1937

WP(C).No. 170 of 2015 (U)

PETITIONER:

**MONY V ATHUKUZH,
S/O. VARGHESE, AGED 51 YEARS,
GOVERNMENT A CLASS CONTRACTOR,
ATUHUKUZH HOUSE, MANEED P.O., ERNAKULAM.**

**BY ADVS.SRI.P.M.JOSHI
SMT.T.JUSTY MATHEW
SMT.BEENA THOMAS
SMT.SIJI K.PAUL
MISS ELZABETH KOSHY**

RESPONDENT(S):

- 1. THE STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO THE FOREST DEPARTMENT,
THIRUVANANTHAPURAM - 695 001.**
- 2. THE CHIEF CONSERVATOR OF FOREST,
RANGE CIRCLE, AARANYA BHAVAN, FOREST OFFICE,
PARAMPUZHA, SH MOUNT P.O., KOTTAYAM DISTRICT - 686004.**
- 3. THE DIVISIONAL FOREST OFFICER (DFO),
MUNNAR, DFO OFFICE MUNNAR, DEVIKULAM,
IDUKKI - 685 613.**
- 4. THE RANGE FOREST OFFICER, MUNNAR DIVISION,
DFO OFFICE MUNNAR, DEVIKULAM, IDUKKI - 685 613.**
- 5. TREASURY OFFICER,
DISTRICT TREASURY, IDUKKI, MUNNAR - 685 612.**
- 6. THE SECRETARY TO THE FINANCE DEPARTMENT,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM-695 001.**

BY SPECIAL GOVT. PLEADER(FOREST) SRI.THOMAS KUTTY

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 29-09-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT-P1- THE TRUE COPY OF THE AGREEMENT NO. 3/2012-13 DATED 17/08/2012 ENTERED INTO BETWEEN THE PETITIONER AND 3RD RESPONDENT.
- EXHIBIT-P2- THE TRUE COPY OF THE LETTER DATED 04/09/2012 SENT TO 3RD RESPONDENT BY THE PETITIONER.
- EXHIBIT-P3- THE TRUE COPY OF THE LETTER DATED 09/10/2012 OF 3RD RESPONDENT TO THE ASSISTANT EXECUTIVE ENGINEER.
- EXHIBIT-P4- THE COPY OF THE CALCULATION STATEMENT PREPARED BY THE ASSISTANT EXECUTIVE ENGINEER.
- EXHIBIT-P5- THE TRUE COPY OF THE LETTER DATED 31/10/2012 OF 4TH RESPONDENT.
- EXHIBIT-P6- THE TRUE COPY OF THE SUPPLEMENTARY AGREEMENT DATED 08/11/2012 BETWEEN PETITIONER AND 3RD RESPONDENT.
- EXHIBIT-P7- THE COPY OF THE ACTUAL MEASUREMENT BY THE ASSISTANT EXECUTIVE ENGINEER.
- EXHIBIT-P8- TRUE COPY OF THE BILL FOR RS.8,24,624.90/- PREPARED BY THE ASSISTANT EXECUTIVE ENGINEER.
- EXHIBIT-P9- THE COPY OF THE RUNNING ACCOUNT BILL FOR RS.8,23,978/- PREPARED BY THE 4TH RESPONDENT.
- EXHIBIT-P10- THE COPY OF THE LETTER DATED 20/11/2012 OF 3RD RESPONDENT TO 2ND RESPONDENT.
- EXHIBIT-P11- THE COPY OF THE LETTER OF CREDIT NO.2233 DATED 18/02/2013 ISSUED FINANCE DEPARTMENT.
- EXHIBIT-P12- THE TRUE COPY OF THE PHOTOGRAPH OF THE BUILDING CONSTRUCTED AFTER EXCAVATION OF THE SOIL COPY.
- EXHIBIT-P13- THE TRUE COPY OF THE LAWYER NOTICE DATED 08/05/2014 SENT TO THE 2ND AND 3RD RESPONDENT.
- EXHIBITS-P14(1) AND (2)-TRUE COPY OF THE A/D CARDS BOTH DATED 12/05/2014.
- EXHIBIT-P15- THE COPY OF THE CERTIFICATE DATED 24.11.2014 ISSUED FROM MANEED SERVICE CO-OPERATIVE BANK LTD.NO.E-59.

RESPONDENTS' EXHIBITS: **NIL.**

//TRUE COPY//

P.S. TO JUDGE

A.MUHAMED MUSTAQUE, J.

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W.P.(C).No. 170 of 2015

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Dated this the 29th day of September, 2015

J U D G M E N T

The petitioner had undertaken the construction of Bachelor Quarters in Munnar Range for the use of Forest Department. The petitioner executed extra work based on a supplemental agreement. In the agreement it was agreed that the petitioner shall not claim any enhanced rate of compensation whatsoever on account of such extra quantity which exceed more than 25% from the original agreement amount.

2. It is stated that the petitioner has not given a bill amount for the extra work for the want of the prior permission from the 2nd respondent.

3. The fact remain that the petitioner has executed the extra work and that is benefited to the Forest Department and that must be compensated. The question of administrative sanction cannot stand in the way of giving the bill amount of the petitioner for the work executed by him.

4. Therefore this Court is of the view that the 2nd respondent shall give appropriate sanction for the extra work undertaken by the petitioner based on supplemental agreement and the amount shall be released to the petitioner based on such sanction without any delay. The sanction shall be given to the petitioner within one month from the date of receipt of the copy of this judgment and thereafter the amount shall be released to him within a further period of two months. If the security deposit is not so far released to the petitioner, that shall be released to the petitioner in terms of the agreement.

The writ petition is disposed of, as above.

sd/-

sab

A.MUHAMED MUSTAQUE, JUDGE