

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

WP(C).No. 2370 of 2015 (U)

PETITIONER(S):

**SMEERAJ B.S, AGED 30 YEARS
S/O.LATE BABU, CONTRACTOR, SANTHA NIVAS
AYIROOR, PERUMKADAVILA, NEYYATTINKARA
THIRUVANANTHAPURAM-695124.**

BY ADV. SRI.BABU JOSEPH KURUVATHAZHA

RESPONDENT(S):

- 1. CORPORATION OF THIRUVANANTHAPURAM
PALAYAM, THIRUVANANTHAPURAM-695033
REPRESENTED BY ITS SECRETARY.**
- 2. THIRUVANANTHAPURAM CORPORATION COUNCIL
REPRESENTED BY ITS CHAIRPERSON
OFFICE OF THE THIRUVANANTHAPURAM CORPORATION
PALAYAM, THIRUVANANTHAPURAM-695033.**
- 3. CORPORATION ENGINEER
CORPORATION OF THIRUVANANTHAPURAM, PALAYAM
THIRUVANANTHAPURAM-695033.**

BY SRI.P.K.MANOJKUMAR,SC,

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT-P1:** TRUE COPY OF THE SELECTION NOTICE NO.ZK1/2248/12 DATED 12.12.2012 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT-P2:** TRUE COPY OF THE SELECTION NOTICE NO.E11/MS/507/010 DATED 27.6.2011 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT-P3:** TRUE COPY OF THE REPRESENTATION DATED 16.11.2010 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- EXHIBIT-P4:** TRUE COPY OF THE MEMO NO.NE2/PR.NO./48/09-10 DATED 26.9.2009 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT-P5:** TRUE COPY OF THE DETAILS OF ADDITIONAL WORKS WORTH RS.79,800/- INVOLVED IN TENDER SCHEDULE PR.NO.MS/534/10.
- EXHIBIT-P6:** TRUE COPY OF THE JUDGMENT DATED 18.9.2002 IN O.P.NO.25741/2002 OF THIS HON'BLE COURT.
- EXHIBIT-P7:** TRUE COPY OF THE JUDGMENT DATED 25.6.2004 IN CONT.CASE (C) NO.379/2004 OF THIS HON'BLE COURT.
- EXHIBIT-P7(A):** TRUE COPY OF THE ORDER DATED 4.5.2005 IN CIVIL APPEAL NO.3148/2005 OF THE HON'BLE SUPREME COURT OF INDIA.
- EXHIBIT-P7(B):** TRUE COPY OF THE ORDER DATED 10.5.2005 IN SPECIAL LEAVE TO APPEAL (CIVIL) NO.9780/2005 AND CONNECTED CASES OF THE HON'BLE SUPREME COURT OF INDIA.
- EXHIBIT-P8:** TRUE COPY OF THE REPRESENTATION DATED 4.5.2014 SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENTS 1 AND 3.
- EXHIBIT-P9:** TRUE COPY OF THE REPRESENTATION DATED 19.12.2014 SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENTS 1 AND 3.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.R. RAMACHANDRA MENON, J.

=====

W.P.(C). No. 2370 of 2015

Dated this the 10th day of February, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

"i. Issue a writ of mandamus or any other appropriate writ, order or direction commanding the respondents to disburse the admitted bill amount, with interest minimum at the treasury rate, with effect from the date of completion of work, forthwith.

ii. Issue a writ of mandamus or any other appropriate writ, order or direction commanding the respondents to record the measurements of the entire works executed by the petitioner forthwith, and to disburse the payments due to him, with interest minimum at treasury rate with effect from the date of completion of works.

iii. Issue a writ of mandamus or any other appropriate writ, order or direction commanding the respondents to consider and dispose of Exts.P8 and P9 representations, in the light of Exts. P7 to P7(b) judgments/orders and the judgments of this Hon'ble Court in Anirudhan v. State of Kerala (1999 (3) KLT 1) (DB) and State of Kerala v. Anil (2002 (1) KLT 371 (FB) forthwith."

2. The case of the petitioner is that, the work awarded to the petitioner by the respondent Corporation forming the subject matter of Ext.P1 was completed to the satisfaction of all

concerned way back on 19.12.2012 and the work pertains to Ext.P2 was completed on 19.10.2011. The bills submitted by the petitioner are stated as processed and finalized. But the amount has not been disbursed to the petitioner so far. It is stated that, the petitioner has borrowed huge amounts from different corners and is bound to return the same and that huge interest is getting mounted up day by day. Though the petitioner filed Exts. P8 and P9 representations before the concerned authorities on 4.5.2014 and 19.12.2014, they have not yielded any positive result and hence the writ petition.

3. Heard the learned Standing Counsel for the Corporation as well.

4. Time was being sought for from the part of the respondents from 23.01.2015 for getting instructions, which however is still to come. This Court finds that the issue pending consideration before the concerned respondents with regard to the disbursement of payment in respect of the work extracted from the petitioner is to be considered and finalized within the shortest possible time.

5. In the said circumstance, there will be a direction to the concerned respondent to consider and pass appropriate orders on Exts. P8 and P9 in accordance with law for causing disbursement of the due amount to the petitioner, which shall be finalized at the earliest, at any rate, within 'three months' from the date of receipt of a copy of this judgment. It is also made clear that, the seniority of the contractors is not intended to be violated in pursuing such an exercise.

The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the concerned respondent for further steps. The writ petition is disposed of.

**P.R. RAMACHANDRA MENON,
JUDGE.**

kp/-