

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 29TH DAY OF JANUARY 2015/9TH MAGHA, 1936

WP(C).No. 2485 of 2015 (I)

PETITIONER :

**P.K.SULPHIKER, AGED 54 YEARS,
S/O. LATE MOHAMMED HAJI, GOVERNMENT CONTRACTOR,
KOLATHIKKAL HOUSE, KIZHUPARAMBA P.O., AREACODE VIA,
MALAPPURAM-673 369.**

**BY ADVS.SRI.BABU KARUKAPADATH
SMT.M.A.VAHEEDA BABU
SRI.K.A.NOUSHAD
SRI.P.U.VINOD KUMAR
SRI.KANDAMPULLY RAHUL
SRI.MITHUN BABY JOHN
SRI.J.RAMKUMAR**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
PUBLIC WORKS DEPARTMENT, GOVERNMENT SECRETARIATE,
THIRUVANANTHAPURAM-695 001.**
- 2. THE SUPERINTENDING ENGINEER,
PWD ROAD DIVISION, KOZHIKODE-673 001.**
- 3. THE EXECUTIVE ENGINEER,
PWD ROADS DIVISION, KOZHIKODE-673 001.**
- 4. THE SUPERINTENDING ENGINEER,
NATIONAL HIGHWAY NORTH CIRCLE, KOZHIKODE-673 001.**

R1 TO R4 BY SR GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 29-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No. 2485 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 : COPY OF THE LETTER OF ACCEPTANCE NO.D3/1054/2014 DTD. 16.1.2015 OF THE 4TH RESPONDENT.

P2 : COPY OF THE CERTIFICATE ISSUED FROM THE OFFICE OF 3RD RESPONDENT.

P3 : COPY OF THE CIRCULAR DTD. 7.3.2003 ISSUED BY THE 1ST RESPONDENT.

P4 : COPY OF THE INTERIM ORDER DTD.19.12.2014 IN WPC NO.34875/2014.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 2485 of 2015

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Dated, this the 29th day of January, 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 permit the petitioner to enter into the agreement for execution of the work awarded under Exhibit P1 treating any part of Rs.5,20,60,067/- covered by Exhibit P2 as security deposit in compliance with Exhibit P1.

and

ii) Grant such other reliefs as this Hon'ble Court shall deem just.

2. The learned counsel for the petitioner submits that the issue involved in this case squarely covered by the judgment dated 20.01.2003 in O.P. No. 1943 of 2003.

3. On going through the pleadings and proceedings, this Court finds that there is no reason to take a deviation from the aforesaid judgment. The observation in paragraph 2 of the said judgment is relevant, which reads as follows :

"2. This O.P. is filed for a direction to the second respondent to adjust the amounts due to the petitioner for completed works towards security deposit for new work being awarded. The second respondent is directed to make arrangement for adjustment of so much of the amount from amounts due to the petitioner towards security deposit and ensure that the amount transferred to security deposit account is not withdrawn by the petitioner except in accordance with the terms of the new contract. Time for execution of the agreement is extended by two weeks."

4. In the said circumstances, the respondents are directed to adjust the appropriate extent of amount covered by Ext. P2 towards the security deposit for execution of the work awarded under Ext. P1.

Petitioner shall produce a copy of this judgment along with copy of the writ petition before the concerned respondent for further steps.

The Writ Petition is disposed of.

Sd/-

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

kmd