

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 16TH DAY OF OCTOBER 2015/24TH ASWINA, 1937

WP(C).No. 5856 of 2015 (F)

PETITIONER:

**M.AHAMMEDKUTTY HAJI, AGED 74 YEARS,
S/O.MOIDEEN, P.W.D.CONTRACTOR,
MALIYEKKAL CONSTRUCTION COMPANY,
VENGARA, MALAPPURAM DISTRICT.**

**BY SRI.T.SETHUMADHAVAN (SENIOR ADVOCATE)
ADVS. SRI.PUSHPARAJAN KODOTH
SRI.K.JAYESH MOHANKUMAR
SMT.VANDANA MENON**

RESPONDENTS:

- 1. THE SUPERINTENDENT ENGINEER,
MINOR IRRIGATION NORTH CIRCLE,
KOZHIKODE - 673 005.**
- 2. THE EXECUTIVE ENGINEER,
MINOR IRRIGATION DIVISION,
MALAPPURAM, PIN - 679 329.**
- 3. THE EXECUTIVE ASSISTANT ENGINEER,
MINOR IRRIGATION SUB DIVISION,
MALAPPURAM, PIN - 679 329.**
- 4. THE ASSISTANT ENGINEER,
MINOR IRRIGATION SECTION, NILAMBUR,
MALAPPURAM DISTRICT, PIN - 679 329.**

BY GOVERNMENT PLEADER SRI.MANOJ P.KUNJACHAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 16-10-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS :

- EXT.P1: TRUE COPY OF PROCEEDINGS OF 1ST RESPONDENT
DATED 12/06/2013 AWARDED THE CONTRACT TO THE PETITIONER.
- EXT.P2: TRUE COPY OF THE AGREEMENT DATED 12/06/2013 EXECUTED BY
THE 1ST RESPONDENT AND THE PETITIONER (13 PAGES)
- EXT.P3: TRUE COPY OF REPRESENTATION DATED 09/12/2013 SUBMITTED BY
THE PETITIONER TO THE 1ST RESPONDENT.
- EXT.P4: TRUE COPY OF PROCEEDINGS DATED 31/01/2014 OF THE R1
EXTENDING THE TIME FOR COMPLETION OF WORK TILL 31/03/2014.
- EXT.P5: TRUE COPY OF SUPPLEMENTAL AGREEMENT EXECUTED BY THE
1ST RESPONDENT AND THE PETITIONER ON 31/01/2014.
- EXT.P6: TRUE COPY OF THE REPRESENTATION DATED 15/05/2014 SUBMITTED
BY THE PETITIONER TO THE 1ST RESPONDENT.
- EXT.P7: TRUE COPY OF COMMUNICATION DATED 23/09/2014 ISSUED BY THE
1ST RESPONDENT TO THE PETITIONER.
- EXT.P8: TRUE COPY OF THE EXPLANATION SUBMITTED BY THE PETITIONER
TO THE 1ST RESPONDENT DATED 09/10/2014.
- EXT.P9: TRUE COPY OF ORDER DATED 15/12/2014 ISSUED BY THE R1
TERMINATING THE CONTRACT AWARDED TO THE PETITIONER.
- EXT.P10: TRUE COPY OF THE DETAILS OF CONTRACT WORK ENTRUSTED TO
PETITIONER BY DIFFERENT GOVT. DEPARTMENTS.

RESPONDENT(S)' EXHIBITS & ANNEXURES:

ANNEXURE R2(A): THE PHOTOCOPY OF THE LETTER DATED 23.9.2014.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A. MUHAMED MUSTAQUE, J

W.P.(C).No. 5856 of 2015

Dated this the 16th day of October, 2015

JUDGMENT

The petitioner has approached this Court aggrieved by Ext.P9 Order of termination of the work awarded to him.

2. The petitioner has been awarded with the work for the construction for FD-Side Protection Works to Rivera Thodu at Myladi (second reach) in Chaliyar Grama Panchayath.

3. The learned counsel for the petitioner submits that the petitioner is owing to reasons beyond his control, could not commence the work. It is also submitted that the petitioner was prepared to undertake the work, however on account of protest and objection from the owners of the property who are residing near to thodu, he could not start the work.

4. This Court is of the view that the petitioner should be given an opportunity in this matter to raise his objection. Therefore, treating Ext.P7 as a notice, the petitioner shall raise his objection before the 1st respondent within a period of two weeks from the date of receipt of a copy of this judgment. Thereafter, the 1st respondent shall take appropriate decision thereon within further period of two weeks after hearing the petitioner.

The writ petition is disposed of as above.

Sd/-
**A. MUHAMED MUSTAQUE,
JUDGE**

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The word "Ext.P7" occurring in the 3rd line in paragraph 4 of the judgment dated 16/10/2015 in W.P.C.No.5856/2015 is corrected and substituted as "Ext.P9" as per order dated 04/11/2015 in I.A. 16014/2015 in W.P.(C) No. 5856/2015.