

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 6TH DAY OF OCTOBER 2015/14TH ASWINA, 1937

WP(C).No. 7217 of 2015 (B)

PETITIONER(S):

**K.GEOGY GEORGE, AGED 53 YEARS, S/O.GEORGE,
PWD CONTRACTOR, KOTTUKAPPILLY HOUSE, KUNNUMPURAM,
KALPATHY P.O., PALAKKAD- 678 003.**

**BY ADVS.SRI.K.V.PAVITHRAN
M.P.JAYANANDAN
SRI.P.SAJU**

RESPONDENT(S):

- 1. SUPERINTENDING ENGINEER,
KERALA STATE RURAL ROADS DEVELOPMENT AGENCY,
LOCAL SELF GOVERNMENT DEPARTMENT (RD) DEPARTMENT,
3RD FLOOR, CSI BUILDING, PULIMOOD JUNCTION,
THIRUVANANTHAPURAM - 1.**
- 2. EXECUTIVE ENGINEER,
PROJECT IMPLEMENTATION UNIT, DISTRICT PANCHAYATH,
PALAKKAD.**
- 3. MEMBER SECRETARY, KSRRDA,
THIRUVANANTHAPURAM.**
- 4. STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT,
LOCAL SELF GOVERNMENT DEPARTMENT,
THIRUVANANTHAPURAM.**

**R1-R3 BY ADV.SRI.P.K.NIJOY, SC
R4 BY GOVERNMENT PLEADER SRI.MANOJ KUNJACHAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
06-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

EXT P1- TRUE COPY OF THE RELEVANT PORTIONS OF THE AGREEMENT.

**EXT P2- TRUE COPY OF THE COMPLETION CERTIFICATE ISSUED BY THE
2ND RESPONDENT.**

**EXT P3- TRUE COPY OF LETTER DATED 12/07/2011 OF THE 2ND RESPONDENT
ADDRESSED TO THE PETITIONER.**

**EXT P4- TRUE COPY OF LETTER DATED 28/12/2011 OF 2ND RESPONDENT TO
3RD RESPONDENT.**

EXT P5- TRUE COY OF INSPECTION CARD AT THE DATED 28/03/2012.

**EXT P6- TRUE COPY OF THE LETTER DATED 1/7/2011 OF THE 1ST RESPONDENT TO
SECOND RESPONDENT.**

**EXT P7- TRUE COPY OF THE LETTER DATED 15/06/2013 OF PETITIONER TO FIRST
RESPONDENT.**

EXT P7(A)- TRUE COPY OF POSTAL ACKNOWLEDGMENT CARD OF EXT. P7.

**EXT P8- TRUE COPY OF LETTER DATED 11/09/2013 OF THE PETITIONER TO
3RD RESPONDENT.**

EXT P8(A)- TRUE COPY OF POSTAL ACKNOWLEDGEMENT.

**EXT P9- TRUE COPY OF THE LETTER DATED 13/11/2013 OF THE PETITIONER TO
SECOND RESPONDENT.**

EXT P9(A)- TRUE COPY OF POSTAL ACKNOWLEDGMENT DATED 15/02/2015.

**EXT P10- TRUE COPY OF THE LETTER DATED 13/01/2015 OF THE 1ST RESPONDENT
ADDRESSED TO THE PETITIONER.**

**EXT P11- TRUE COPY OF THE REPLY DATED 5/2/2015 OF THE PETITIONER TO
EXT P10.**

EXT P11(A)- TRUE COPY OF THE POSTAL ACKNOWLEDGMENT CARD.

**EXT.P12: TRUE COPY OF THE ORDER DTD.17.3.2015 OF FIRST RESPONDENT
TERMINATING THE CONTRACT.**

**EXT.P12(a): TRUE COPY OF THE POSTAL RECEIPT DTD.20.3.2015, OF SENDING
EXT.P12.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.7217 of 2015

Dated this the 6th day of October, 2015

JUDGMENT

The petitioner was awarded the work PMGSY 2006-2007 Phase-VI, Package No.KR-10-10 (A) by the Public Works Department. The petitioner completed the work on 26.3.2011.

2. The petitioner has approached this Court to release the proportionate security deposit and also to release the maintenance expenses for the first year.

In this matter, a counter affidavit has been filed by the respondents. In the counter affidavit, it is stated that the petitioner carried out the first year maintenance. Payment of each stage is subjected to quality examination by the State and National Quality Monitors. It is noted by the National Quality Monitors that the work itself is unsatisfactory and the first year maintenance work was also unsatisfactory. Therefore, the respondents in terms of the agreement, with held payment to the petitioner. The respondents in the counter affidavit also produced quality check by the National Quality Monitors.

This Court is of the view that the petitioner, after adverting to the quality check report, shall carry out necessary work to the satisfaction of the Department. Thereupon, if the Department is satisfied that the petitioner has completed the work to the satisfaction, shall release the amount in accordance with the terms of the contract. If the petitioner carries out further maintenance, the quality check shall be done by the National Quality Monitors and based on the report, the amount can be released.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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