

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

WP(C).NO. 9057 OF 2015 (F)

PETITIONER(S):

**D. GIRIJA, ASHA BHAVAN,
NEDUVATHOOR, NEELESWARAM P.O.,
KOTTARAKKARA , KOLLAM.**

**BY SRI.K.L.VARGHESE, SENIOR ADVOCATE.
ADVS. SMT.SANTHA VARGHESE,
SRI.RAHUL VARGHESE,
SRI.RANJITH VARGHESE.**

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
PUBLIC WORKS (E) DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM -695 001.**
- 2. THE FINANCE SECRETARY,
PUBLIC WORKS (E) DEPARTMENT,
THIRUVANANTHAPURAM- 695 001.**
- 3. THE CHIEF ENGINEER,
PWD (BUILDINGS), THIRUVANANTHAPURAM- 695 001.**
- 4. THE SUPERINTENDING ENGINEER,
PWD (BUILDINGS) SOUTH CIRCLE,
THIRUVANANTHAPURAM -695 001.**
- 5. THE EXECUTIVE ENGINEER,
PWD BUILDINGS DIVISION, KOLLAM- 691 001.**

BY SPL. GOVT. PLEADER SRI.P.V.LONACHAN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).NO. 9057 OF 2015 (F)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1: TRUE COPY OF THE GOVERNMENT ORDER DATED 11.02.2013.

EXHIBIT P2: TRUE COPY OF THE LETTER DT. 05.08.2014 ISSUED BY THE
5TH RESPONDENT TO THE 3RD RESPONDENT.

EXHIBIT P3: TRUE COPY OF LETTER DT. 20.08.2014 ISSUED BY THE PETITIONER
TO THE 4TH RESPONDENT.

EXHIBIT P4: TRUE COPY OF LETTER DT. 19.09.2014 ISSUED BY THE ASSISTANT
ENGINEER TO THE PETITIONER.

EXHIBIT P5: TRUE COPY OF LETTER DT. 23.09.2014 ISSUED BY THE
5TH RESPONDENT TO THE PETITIONER.

EXHIBIT P6: TRUE COPY OF LETTER DT. 13.10.2014 ISSUED BY THE PETITIONER
TO THE 5TH RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.9057 of 2015

Dated this the 1st day of April, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

"(i) A writ of mandamus or any other appropriate writ, order or direction be issued, directing the respondents to make payment of part bills I & II immediately and raise and certify next bill in respect of the balance works done.

(ii) A writ of mandamus or any other appropriate writ, order or direction be issued, commanding the Respondents not to take any coercive steps against the petitioner either to cancel the work till the pending payments are released and allow the petitioner to continue and complete the work after payment subject to legal rights of the petitioner or else to treat the contract as foreclosed without risk liability on the petitioner on account of defaults of the respondents in making timely payment.

(iii) A writ of mandamus or any other appropriate writ, order or direction be issued, calling for all the records leading to Ext.P-5 letter of the 5th respondent proposing for 30% retention recovery and quash the same.

(iv) Grant interest at 15% per annum on the amount due to the petitioner for work done from the respective dates of the bills.

(v) Grant costs to the petitioner and such other reliefs as are prayed for and deemed fit to be granted in the circumstances of the case."

2. The learned Senior Counsel appearing for the petitioner points out that, the matter came to a standstill only because of the laxity on the part of the respondents, particularly when the part bill submitted by the petitioner was never honoured, so as to enable the petitioner to proceed with further works. In spite of that, the petitioner was served with Ext.P5 dated 23.09.2014, stating that 30% of the retention amount will be recovered from the amount payable as per the part bill submitted by the petitioner, which is absolutely without any rhyme or reason. The petitioner has sought to explain the position by submitting Ext.P6 in October, 2014, which is still to be acted upon. This made the petitioner to approach this Court by filing this writ petition.

3. Heard the learned Government Pleader as well, who submits that, a final decision will be taken considering the grievance projected by the petitioner by way of Ext.P6 within the shortest possible time.

4. After hearing both the sides, the 5th respondent is directed to pass appropriate orders on Ext.P6, so as to effect disbursement of the due amount as covered by part bills submitted by the petitioner, without recovery, at the earliest, at

any rate, within a period of 'one month' from the date of receipt of a copy of this judgment.

The petitioner shall produce a copy of this judgment, along with a copy of the writ petition, before the 5th respondent, for further steps.

The writ petition is disposed of.

Sd/-

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

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