

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

WP(C).No. 9930 of 2015 (M)

PETITIONER(S):

**M/S.CHILTON REGRIGATION INDUSTRIES,
C.L. ANAND LANE, M.G. ROAD, ERNAKULAM,
KOCHI-11, REPRESENTED BY ITS PROPRIETOR,
MR. P.G. CHILPRAKASH**

**BY SRI.V.V.SIDHARTHAN, SENIOR ADVOCATE
ADVS. SRI.K.V.PRAKASAN
SRI.D.G.VIPIN
SRI.KAROL MATHEWS SEBASTIAN ALENCHERRY**

RESPONDENT(S):

- 1. THE KERALA MINERALS & METALS LTD.,
A GOVERNMENT OF KERALA UNDERTAKING SANKARAMANGALAM,
CHAVARA, KOLLAM-691 583,
REPRESENTED BY ITS MANAGING DIRECTOR.**
- 2. STATE BANK OF INDIA, TRADE FINANCE CPC ERNAKULAM,
INDIRA GANDHI ROAD, WILLINGDON ISLAND, KOCHI-682 003,
REPRESENTED BY ITS MANAGER.**

**R1 BY ADV. SMT.LATHA KRISHNAN
R2 BY SRI.K.K.CHANDRAN PILLAI, SENIOR ADVOCATE
ADV. SMT.S.AMBILY**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv

WP(C).No. 9930 of 2015 (M)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE COPY OF THE TENDER DOCUMENT SUBMITTED BY THE
PETITIONER BEFORE THE 1ST RESPONDENT.**

**EXHIBIT P2: TRUE COPY OF THE PURCHASE ORDER NO.TP/06/1488/2014-15
DATED 05.9.2014.**

**EXHIBIT P3: TRUE COPY OF THE BANK GUARANTEE NO.0506614 BG 0000255
DATED 14.10.2014 FOR RS.62,830.**

**EXHIBIT P4: TRUE COPY OF THE EMAIL PRINTOUT DATED 28.10.22014 SENT BY THE
1ST RESPONDENT TO THE PETITIONER.**

EXHIBIT P5: TRUE COPY OF THE EMAIL PRINTOUT DATED 16.2.2015.

**EXHIBIT P6: TRUE COPY OF THE LETTER NO. BG/65/2014-15 DATED 23.2.2015 SENT
BY THE PETITIONER TO THE 2ND RESPONDENT.**

**EXHIBIT P7: TRUE COPY OF THE PAYMENT VOUCHER ISSUED BY THE
1ST RESPONDENT TO THE PETITIONER DATED 25.2.2015.**

**EXHIBIT P8: TRUE COPY OF THE REPLY DATED 06.3.2015 BY THE PETITIONER TO
THE 1ST RESPONDENT.**

**EXHIBIT P9: TRUE COPY OF REPLY DATED 10.3.2015 ISSUED BY THE
1ST RESPONDENT TO THE PETITIONER**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No. 9930 OF 2015
.....

Dated this the 31st March, 2015

J U D G M E N T

The petitioner has approached this Court with the following prayers:

"a. to issue a writ of certiorari or any other appropriate writ, order or direction calling for the issuance of Exhibit P6 and Exhibit P9 and quash Exhibit P6 and P9.

b. to issue writ of mandamus or any other writ, order or direction directing the 2nd respondent not to pay the amount covered under Exhibit P3 bank guarantee to the 1st respondent.

c. to issue any other appropriate writ, order or direction this Honourable Court may deem fit to grant in the facts and circumstances of the case.

2. When the matter came up for consideration before this Court on the last occasion, i.e on 27.03.2015, it was submitted by the learned Counsel for the second respondent /Bank that the Bank Guarantee has already been encashed. The factual position with regard to encashment of Bank Guarantee has been confirmed today. But the case projected by the learned Counsel for the petitioner is that the course pursued by the respondents

is not in conformity with the terms of the contract/agreement and that it is in violation of the relevant provisions of law.

This Court does not find it necessary to entertain the said version, in so far as the relief sought for in the writ petition is with reference to the encashment of Bank Guarantee, which has already taken place. In the said circumstance, the writ petition is disposed of, without prejudice to the rights and liberties of the petitioner to pursue appropriate remedy in accordance with law, before the other appropriate Forum.

P.R.RAMACHANDRA MENON
JUDGE

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