

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN**

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

WP(C).No. 14306 of 2012 (K)

PETITIONER:

**K.V.SARALA
PRESIDENT
SREEKRISHNA SWAMY KSHETRA UPADESAKA SAMITHY
ADHOC COMMITTEE, SREEKRISHNA SWAMY TEMPLE
BANK JUNCTION, ALUVA.**

**BY ADVS.SRI.S.SREEKUMAR (SR.)
SRI.MANOJ RAMASWAMY**

RESPONDENTS:

- 1. STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT
LOCAL SELF GOVERNMENT DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
 - 2. THE SECRETARY,
ALUVA MUNICIPAL COUNCIL, ALUVA
ERNAKULAM DISTRICT-683 101.**
 - 3. THE SECRETARY,
TRAVANCORE DEVASWOM BOARD
THIRUVANANTHAPURAM-695 001.**
 - 4. THE DEPUTY DIRECTOR,
LOCAL FUND AUDIT, TRAVANCORE DEVASWOM BOARD AUDIT
THIRUVANANTHAPURAM-691 001.**
 - 5. THE EXECUTIVE ENGINEER,
PWD ROADS DIVISION, KAKKANAD, ERNAKULAM-682 030.**
 - 6. BABU JOSEPH,
CONTRACTOR, AMBATTU HOUSE, ALUVA-683101.**
- R1,R4,R5 BY SR. GOVERNMENT PLEADER A.RANJITH
R2 BY ADVS. SRI.V.M.KURIAN
SRI.MATHEW B. KURIAN
SRI.K.T.THOMAS
R3 BY ADV. SRI.M.V.S.NAMBOOTHIRI, SC, TRAVANCORE DEVASWOM BOARD
SRI.G.BIJU,SC,TRAVANCORE DEVASWOM BOARD**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S) EXHIBITS

- EXHIBIT P1: TRUE COPY OF THE AFFIDAVIT DATED 9.2.2012 (WITHOUT ANNEXURES) IN DBP NO.29 OF 2009.
- EXHIBIT P2: TRUE COPY OF THE ORDER DATED 10.2.2012 IN DBP NO.29 OF 2009.
- EXHIBIT P3: TRUE COPY OF THE AGREEMENT DATED 29.1.2012 WITH THE 6TH RESPONDENT.
- EXHIBIT P4: TRUE COPY OF THE AGREEMENT DATED 17.2.2012.
- EXHIBIT P5: TRUE COPY OF THE ORDER NO.G.O.(RT) NO.509/2012/LSGD DATED 18.2.2012 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P6: TRUE COPY OF THE STATEMENT (RELEVANT PORTION) AUDITED AND ISSUED TO THE 6TH RESPONDENT.
- EXHIBIT P7: TRUE COPY OF THE NOTICE NO.E1-7932/11 DATED 25.3.2012 ISSUED TO THE PETITIONER.
- EXHIBIT P8: TRUE COPY OF THE LETTER DATED 29.3.2012 SUBMITTED BEFORE THE 2ND RESPONDENT.
- EXHIBIT P9: TRUE COPY OF THE COMPLETE STATEMENT AS AUDITED BY THE CHARTERED ACCOUNTANT.
- ANNEXURE -I: TRUE COPY OF THE RECEIPT DATED 2.8.2013 ISSUED FROM THE OFFICE OF THE JOINT DIRECTOR OF LOCAL FUND AUDIT, TRAVANCORE DEVASWOM BOARD AUDIT AT THIRUVANANTHAPURAM.
- ANNEXURE-II: TRUE COPY OF THE INSURANCE POLICY DETAILS.

RESPONDENTS' EXHIBITS

- EXT.R2(a): TRUE COPY OF THE AGREEMENT DATED 31.1.2012.

/TRUE COPY/

P.A. TO JUDGE

VPV

P.N.RAVINDRAN & ANIL K.NARENDRA, JJ.

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W.P.(C)No.14306 of 2012

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Dated this the 5th day of March, 2015

JUDGMENT

P.N.Ravindran, J.

The petitioner is the President of the Temple Advisory Committee of Aluva Sree Krishna Swami Temple. She had on behalf of the Temple Advisory Committee entered into an agreement with the Aluva Municipality for the construction of a temporary foot over bridge across the Periyar river on built and operate basis. In the course of the transaction, the Aluva Municipality also advanced the sum of Rs.7,50,000/- to her. Pursuant to the agreement, the Temple Advisory Committee of which the petitioner is the President erected a temporary foot over bridge across the Periyar river and collected fees from devotees using the over bridge. Since the sum of Rs.7,50,000/- advanced by the Municipality was not refunded, the Aluva Municipality issued Ext.P7 notice dated 25.3.2012 calling upon the petitioner to refund the sum of Rs.7,50,000/-. The instant writ petition was thereupon filed on 19.6.2012 challenging Ext.P7 notice and seeking various reliefs.

2. The Aluva Municipality had in Ext.P7 notice cautioned the petitioner that if the sum of Rs.7,50,000/- is not refunded, the Municipality will be constrained to initiate appropriate legal proceedings to realise the said amount. The Aluva Municipality has now instituted O.S.No.131 of 2015 in the Court of the Munsiff of Aluva to realise the sum of Rs.9,52,000/- with interest and costs from the defendants personally and from the immovable property belonging to the second defendant, namely the petitioner herein.

In such circumstances, as the Municipality has instituted a suit in the court of competent jurisdiction, we are of the opinion that the petitioner should put forward the contentions which she has raised in the instant writ petition by way of defence in that suit and get the rights of the parties adjudicated in that suit. In such circumstances, leaving open the contentions of both sides, the writ petition is dismissed. The parties shall bear their respective costs.

Sd/-
P.N.RAVINDRAN
JUDGE

Sd/-
ANIL K.NARENDRA
JUDGE