

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

WP(C).No. 10785 of 2015 (W)

PETITIONER :

**JOSHY VARGHESE, AGED 49 YEARS,
S/O.VAREETH, THELAKKADAN HOUSE, MALAMURI,
PULLUVAZHY.P.O, RAYAMANGALAM VILLAGE,
KUNNATHUNADU TALUK.**

**BY ADVS.SRI.V.RAJENDRAN (PERUMBAVOOR)
SRI.GEORGE VARGHESE KIZHAKKAMBALAM**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY PRINCIPAL SECRETARY,
MINOR IRRIGATION DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. EXECUTIVE ENGINEER,
MINOR IRRIGATION DIVISON, CIVIL STATION,
KAKKANAD-682 030, ERNAKULAM.**
- 3. ASSISTANT ENGINEER,
OFFICE OF THE ASSISTANT ENGINEER,
MINOR IRRIGATION SECTION, KOTHAMANGALAM-686 691.**
- 4. CHIEF GEOLOGIST,
DEPATMENT OF MINING AND GEOLOGY, ERNAKULAM,
CIVIL STATION, KAKKAND-682 030.**
- 5. KOTHAMANGALAM MUNICIPALITY,
KOTHAMANGALAM.P.O.686 691, REP. BY ITS SECRETARY.**

**R1 TO R4 BY SR GOVERNMENT PLEADER SRI.JOSEPH GEORGE
R5 BY ADV. SRI.V.M.KURIAN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P-1: TRUE COPY OF THE SCHEDULE OF WORK ALLOTTED TO THE PETITIONER AS PER AGREEMENT NO.87/EE/M/EKM/2012-13
- EXHIBIT P-2: TRUE COPY OF LETTER NO.L12-56240/14 DATED 5.8.2014 ISSUED BY 2ND RESPONDENT TO 5TH RESPONDENT
- EXHIBIT P-3: TRUE COPY OF PERMISSION ISSUED BY KOTHAMANGALAM MUNICIPALITY BEARING NO.PW2-9025/14 DATED 16.9.2014
- EXHIBIT P-4: TRUE COPY OF NO OBJECTION ISSUED BY THE NEIGHBOURS DATED 30.9.2014
- EXHIBIT P-5: TRUE COPY OF LETTER SENT BY 5TH RESPONDENT TO THE 4TH RESPONDENT BEARING NO.MVM-70/2011 DATED 27.9.2014
- EXHIBIT P-6: TRUE COPY OF LETTER SENT BY 3RD RESPONDENT TO 2ND RESPONDENT BEARING NO.A3(D1)130/14 DATED 4.10.2014
- EXHIBIT P-7: TRUE COPY OF NO OBJECTION LETTER BEARING NO.L12-56240/2014/K.DIS DATED 1.11.2014 ISSUED BY 2ND RESPONDENT TO THE PETITIONER.
- EXHIBIT P-8: TRUE COPY OF LETTER NO.MIKM/70/11 DATED 16.4.2014 ISSUED BY 3RD RESPONDENT TO THE ASSISTANT EXECUTIVE ENGINEER
- EXHIBIT P-9: TRUE COPY OF ORDER NO.A3(D1)139/12 DATED 10.12.2014 OF THE 2ND RESPONDENT
- EXHIBIT P-10: TRUE COPY OF JUDGMENT IN W.P(C)1357/2015 DATED 11.2.2015 OF THIS HON'BLE COURT.
- EXHIBIT P-11: TRUE COPY OF LETTER DATED 9.3.2015 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.10785 of 2015

Dated this the 10th day of April, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

"i. To issue appropriate directions by way of a writ of mandamus or any other appropriate writ order or direction to the 2nd respondent to set off the amount to be paid as royalty by the petitioner with the cost of earth deducted from the estimate amount from the account of the petitioner.

ii. However if this Hon'ble Court finds that the petitioner is liable to pay royalty, to direct the 2nd respondent by way of a writ of mandamus or any other appropriate writ order or direction to quantify the royalty to be paid by him and inform the exact figure to the petitioner before re-starting the work and permitting to start the work immediately.

iii. To direct the 2nd respondent by way of a writ of mandamus or any other appropriate writ order or direction to extend the period of completion date of the contract by granting further reasonable extension of time.

iv. To grant such other reliefs which this Hon'ble Court deems fit and proper in the circumstances of the case."

2. The learned counsel for the petitioner submits that, as

per Ext.P10 judgment, the petitioner was permitted to satisfy a sum of Rupees Ten thousand on a provisional basis and to have the work completed, subject to finalisation of the liability in the due course. A further period of one month was granted from 27.02.2015 so as to complete the works. Despite the said verdict and in spite of the readiness expressed by the petitioner to satisfy the said amount vide Ext.P11, which was sent to the 2nd respondent on 09.03.2015, the petitioner was never permitted to effect the deposit by issuing necessary challan and the time was not extended as well. This made the petitioner to approach this Court by filing the writ petition.

3. Heard the learned the learned Government Pleader as well, who submits that the respondents are ready to accept the amount. It is submitted that, if the petitioner approaches the respondents, necessary challan would be issued in this regard so as to enable the petitioner to remit the said amount and the petitioner could be given extension of time by 'one month', subject to execution of a supplementary agreement in this regard.

4. In the above circumstances, the respondents are directed

to give effect to the above course of action without inflicting any penalty upon the petitioner.

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

The writ petition stands disposed of.

Sd/-

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

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