

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

MONDAY, THE 9TH DAY OF NOVEMBER 2015/18TH KARTHIKA, 1937

WP(C).No. 14558 of 2012 (T)

PETITIONER :

**M/S. ESTEEM CONSTRUCTIONS.,
KOVILAKAM ROAD, KOTTAKKAL, MALAPPURAM DISTRICT
REPRESENTED BY ITS MANAGING PARTNER D.RAJASHANKARAN
S/O.K.DAMODARAN, J.N.ROAD, PERINTHALMANNA,
MALAPPURAM DISTRICT.**

BY ADV. SRI.R.RAMADAS

RESPONDENTS :

- 1. STEEL INDUSTRIES KERALA LIMITED,
(A GOVERNMENT OF KERALA UNDERTAKING) STEEL FABRICATION UNIT
REPRESENTED BY ITS MANAGING DIRECTOR, S.N.PURAM
CHERTHALA, ALAPPUZHA DISTRICT-688524.**
- 2. THE DEPUTY GENERAL MANAGER
STEEL INDUSTRIALS KERALA LTD.
(STEEL FABRICATION UNIT), S.N.PURAM, CHERTHALA,
ALAPPUZHA DISTRICT-688524.**

BY SRI.B.S.KRISHNAN SENIOR ADVOCATE

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 09-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER(S) EXHIBITS

- EXHIBIT-P1. TRUE COPY OF THE REPRESENTATION DATED 28.09.2004 BEFORE THE 2ND RESPONDENT REQUESTING TO PAY THE AMOUNTS DUE TO THE PETITIONER AT THE EARLIEST.
- EXHIBIT-P2. TRUE COPY OF THE JUDGMENT DATED 15.04.2005 IN W.P.(C) NO.12651/2005.
- EXHIBIT-P3. TRUE COPY OF THE MINUTES OF THE MEETING HELD ON 21.05.2005 BETWEEN THE OFFICIALS OF THE 1ST RESPONDENT AND THE PETITIONER.
- EXHIBIT-P4. TRUE COPY OF THE REPRESENTATION DATED 09.08.2005 BEFORE THE 2ND RESPONDENT.
- EXHIBIT-P5. TRUE COPY OF THE COVERING LETTER DATED 10.08.2005.
- EXHIBIT-P6. TRUE COPY OF THE REPRESENTATION DATED 27.12.2010 BEFORE THE 2ND 2ND RESPONDENT.
- EXHIBIT-P7. TRUE COPY OF THE JUDGMENT DATED 23.03.2011 IN W.P.(C) NO.4882/2011.
- EXHIBIT-P8. TRUE COPY OF THE REMINDER LETTER DATED 13.05.2011 BEFORE THE 2ND RESPONDENT BY THE PETITIONER.
- EXHIBIT-P9. TRUE COPY OF THE REPLY DATED 19.05.2011 FROM THE 2ND RESPONDENT.
- EXHIBIT-P10. TRUE COPY OF LETTER DATED 02.08.2011 BEFORE THE 2ND RESPONDENT BY THE PETITIONER.
- EXHIBIT-P11. TRUE COPY OF REPLY DATED 10.08.2011 BY THE 2ND RESPONDENT TO EXT.P10.

RESPONDENTS' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.M.SHAFIQUE, J

W.P.C.No.14558 of 2012

Dated this the 9th day of November 2015

J U D G M E N T

This writ petition has been filed seeking for a direction to the respondents to effect payment of the admitted amount due to the petitioner. According to the petitioner, large amounts are outstanding and despite the fact that there is no dispute regarding quantum of amount, no steps are being taken by the respondents to effect payment.

2. 1st respondent is a Steel Fabrication Unit of Steel Industries Kerala Limited. The said company has been declared to be a sick unit by the Board for Industrial and Financial Re-organisation under the Sick Industries Company (Special Provisions Act), 1985 (hereinafter referred to as 'the Act'). The matter is still pending before the BIFR. Being a company, a decision was taken to de-link the Steel Fabrication Unit from the sick company. For some time, the Steel Fabrication Unit was functioning as a separate unit. However, later, attempts were made to re-link the Steel Fabrication Unit to the sick company which had been stayed by the BIFR.

3. The facts being so, since the issue is pending before the BIFR, merely for the reason that an attempt has been made to de-link the Steel Fabrication Unit from the Sick company, I do not think that this Court can direct the amounts to be paid as there is a bar under Section 22(1) of the Act.

4. Though it is a difficult stage which the petitioner is encountering, in view of the statutory bar created in the Act, this Court will not be in a position to issue any direction. However, pendency of the matter before the BIFR does not preclude the respondent from effecting payment. In view of the foregoing discussion, I do not think that the petitioner is entitled for any relief, as prayed for. Accordingly, this writ petition is dismissed.

However, this judgment does not preclude the respondent company from making payments, if they are in possession of sufficient funds for the same.

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

