

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

WP(C).No. 11846 of 2014 (E)

PETITIONER :

**GOPI.P.N.
S/O.NARAYANAN EZHUTHACHAN, PARAPPURATH HOUSE,
MADAKKATHARA P.O., THRISSUR - 680 651.**

**BY ADVS.SRI.G.SREEKUMAR (CHELUR)
SRI.K.R.ARUN KRISHNAN**

RESPONDENTS :

**1. THE STATE OF KERALA
REP. BY THE SECRETARY TO THE GOVT.
LOCAL SELF GOVT. DEPARTMENT, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**

**2. THRISSUR CORPORATION,
REP. BY IT'S SECRETARY, THRISSUR- 680 001.**

**R1 BY GOVERNMENT PLEADER SRI. JUSTIN JACOB
R2 BY SRI.K.P.MJAYAN,SC,
BY ADV. SRI.K.P.VIJAYAN
BY ADV. SRI.V.N.HARIDAS**

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

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1:** A TRUE COPY OF THE WORK ORDER OF PW1 24649 OF 2009
ASSIGNED BY THE SECOND RESPONDENT TO THE PETITIONER
DATED 03/12/2010.
- EXT.P2:** A TRUE COPY OF THE COMPLETION CERTIFICATE OF WORK
NO.PW1 24649 OF 2009 ISSUED BY THE SECOND RESPONDENT TO
THE PETITIONER DATED NIL.
- EXT.P3:** A TRUE COPY OF THE WORK ORDER NO.PW1 48 OF 2010
DATED 12/10/2011.
- EXT.P4:** A TRUE COPY OF THE COMPLETION CERTIFICATE OF WORK ORDER
NO.48 OF 2010 DATED NIL.
- EXT.P5:** A TRUE COPY OF THE WORK ORDER NO.43 OF 2010 DATED 17/10/2011.
- EXT.P6:** A TRUE COPY OF THE COMPLETION CERTIFICATE OF WORK NO.PW1
43 OF 2010 ISSUED BY THE SECOND RESPONDENT DATED NIL.
- EXT.P7:** A TRUE COPY OF THE LETTER GIVEN BY THE COUNSELOR OF 18TH
DIVISION OF THE SECOND RESPONDENT DATED 10/4/2013
- EXT.P8:** A TRUE COPY OF THE WORK ORDER NO.PW1-11016 OF 2008 ISSUED
BY THE SECOND RESPONDENT TO THE PETITIONER DATED 5/05/2009.
- EXT.P9:** A TRUE COPY OF THE SELECTION MEMO OF WORK
NO.PW1 5648/2008 ISSUED BY THE SECOND RESPONDENT TO THE
PETITIONER DATED 30/10/2008.
- EXT.P10:** A TRUE COPY OF THE NOTICE OF DEMAND ISSUED BY THE KERALA
STATE CO OPERATIVE BANK LIMITED THRISSUR BRANCH TO THE
PETITIONER DATED 11/03/2014.
- EXT.P11:** A TRUE COPY OF THE ORDER PASSED BY THIS HONOURABLE COURT
IN WPC NO.14642 OF 2012 DATED 0808/2012.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

DAMA SESHADRI NAIDU, J.

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W.P.(C) No.11846 of 2014

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Dated this the 3rd day of March, 2015

JUDGMENT

Briefly stated, the petitioner, a PWD Class I contractor, was awarded civil works through Exts.P1,P3,P5,P8 and P9 proceedings by the 2nd respondent. In course of time, complaining that, despite the completion of the works, the 2nd respondent Corporation has not paid the amounts due to the petitioner, he has filed the present writ petition.

2. The respondent Corporation has filed its counter affidavit, contending, inter alia, that the petitioner has completed only three works, i.e., works awarded through Exts.P1,P3 and P5 but he has not completed works awarded through Ext.P8 and P9 proceedings. In that process the respondent Corporation has admitted that the Corporation is due to pay an amount of ₹3,01,273/ to the petitioner-.

3. In the above facts and circumstances, the learned counsel for the petitioner contended that, leaving aside the works awarded through Exts.P8 and P9 proceedings, regarding

which there is a dispute while the petitioner has completed, at least to the extent of works admitted to have been completed, the 2nd respondent Corporation ought to have paid the amounts. In this regard, the learned counsel has brought to my notice the averments made by the respondent Corporation in paragraph 9 of the counter affidavit.

4. The learned counsel for the respondent Corporation, on his part, has submitted that the Corporation has in fact acknowledged the amounts due only for the first three works but not for the last two works.

5. Though this Court cannot be converted into a forum for recovery of money based on contractual disputes, it is a well established legal principle that once the amounts stand admitted, the State or the instrumentality thereof is required to honour its undertaking, lest it should fall foul of Article 14 the Constitution of India.

6. A perusal of the counter affidavit filed by the respondent Corporation amply demonstrates that the Corporation is due to the petitioner an amount of ₹3,01,273/-. The break up of the amount as shown in the counter affidavit is as follows:-

For work under Ext.P1 is ₹1,83,987/-; for work under Ext.P3 is ₹99,031/- and for work under Ext.P5 is ₹18,255/-.

In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioner and the learned Standing Counsel for the respondent Corporation, this Court disposes of the writ petition with a direction to the 2nd respondent Corporation to pay to the petitioner the admitted amounts as contained in paragraph 9 of the counter affidavit, as expeditiously as possible, at any rate within one month from the date of receipt of a copy of this judgment.

DAMA SESHADRI NAIDU, JUDGE

sj