

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

THURSDAY, THE 19TH DAY OF NOVEMBER 2015/28TH KARTHIKA, 1937

WP(C).No. 16883 of 2012 (I)

PETITIONER :

P.K.IBRAHIM, AGED 46 YEARS,
S/O.KHADER, CONTRACTOR,
PERINGATTIL HOUSE, VADAKODE P.O., KANGARAPPADY,
KOCHI-21.

BY ADVS.SRI.BABU JOSEPH KURUVATHAZHA
SMT.M.BINDU DAS

RESPONDENTS :

1. KALAMASSERY MUNICIPALITY,
REPRESENTED BY ITS SECRETARY,
CHANGAMPUZHA NAGAR P.O., KALAMASSERY, KOCHI-682033.
2. KALAMASSERY MUNICIPAL COUNCIL,
REPRESENTED BY ITS CHAIRMAN, CHANGAMPUZHA NAGAR P.O.,
KALAMASSERY, KOCHI-682033.
3. THE MUNICIPAL ENGINEER,
KALAMASSERY MUNICIPALITY, CHANGAMPUZHA NAGAR P.O.,
KALAMASSERY, KOCHI-682033.

BY ADV. SRI.M.K.ABOOBACKER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 TRUE COPY OF THE DETAILS OF SOME OF THE WORKS EXECUTED BY THE PETITIONER, FOR WHICH PAYMENTS ARE DUE, WITH EFFECT FROM 21/7/2010 TO 14/11/2011.
- EXT.P2 TRUE COPY OF THE REPRESENTATION DATED 18/10/2010 SUBMITTED BY THE PETITIONER BEFORE THE 1ST AND 3RD RESPONDENTS.
- EXT.P3 TRUE COPY OF THE REPRESENTATION DATED 5/4/2011 SUBMITTED BY THE PETITIONER BEFORE THE 1ST AND 3RD RESPONDENTS.
- EXT.P4 TRUE COPY OF THE REPRESENTATION DATED 16/8/2011 SUBMITTED BY THE PETITIONER BEFORE THE 1ST AND 3RD RESPONDENTS.
- EXT.P5 TRUE COPY OF THE REPRESENTATION DATED 25/6/2012 SUBMITTED BY THE PETITIONER BEFORE THE 1ST AND 3RD RESPONDENTS.
- EXT.P6 TRUE COPY OF THE JUDGEMENT DATED 30/6/2011 IN W.P.(C)No.231/2011 OF THIS COURT.
- EXT.P7 TRUE COPY OF THE JUDGEMENT DATED 18/9/2002 IN OP.25741/2002 OF THIS COURT.
- EXT.P8 TRUE COPY OF THE JUDGEMENT DATED 25/6/2004 IN COC.379/2004 OF THIS COURT.
- EXT.P9 TRUE COPY OF THE ORDER DATED 4/5/2005 IN CIVIL APPEAL No. 3148/2005 OF THE HON'BLE SUPREME COURT OF INDIA.
- EXT.P10 TRUE COPY OF THE ORDER DATED 10/5/2005 IN SPECIAL LEAVE TO APPEAL(CIVIL) No.9780/2005 AND CONNECTED CASES OF THE HON'BLE SUPREME COURT OF INDIA.

RESPONDENTS' EXHIBITS :- NIL.

True copy

P.A to Judge

ANIL K.NARENDRA, J.

W.P.(C)No.16883 of 2012

Dated this the 19th day of November, 2015

JUDGMENT

The petitioner, who is an 'A' class contractor, has filed this writ petition seeking a writ of mandamus commanding the respondents to disburse the admitted amounts due to him as detailed in Ext.P1 statement in respect of the works he had already undertaken in Kalamassery Municipality together with interest at the treasury rate. The petitioner has also sought for a writ of mandamus commanding the respondents to consider Exts.P2 to P5 representations and pass appropriate orders thereon in the light of the judgment of this Court referred to therein.

2. Going by the averments in the writ petition the petitioner had executed various works in Kalamassery Municipality and even after a lapse of more than 1½ years payments have not been disbursed. The details of the works executed by the petitioner for which the payment are due, for the period from 21.7.2010 to 14.11.2011, are furnished in Ext.P1 statement. Due to the delay in disbursement of the amount covered by various bills, the petitioner

has submitted Exts.P2 to P5 representations before the respondents and it was thereafter he has approached this Court in this Writ Petition seeking various reliefs.

3. A statement has been filed on behalf of the respondent in which it has been stated that all bills referred to in Ext.P1, except Serial No.12 (File No.S 118/12), has already been cleared by the Municipality and payments were effected between 13.2.2012 and 17.8.2012. Payment was outstanding only in respect of Sl.No.12 in Ext.P1, since the said bill is item No.102 in the seniority list and payment was delayed due to disputes with regard to measurement, quality of work, etc., and also due to paucity of funds.

4. From the facts disclosed in the statement it can be seen that the major grievance of the petitioner regarding non-payment of amount covered by the bills mentioned in Ext.P1 has already been redressed and the only pending bill was Bill No.S 118/12. If the petitioner is yet to receive the payment covered by the aforesaid bill, it is for him to make appropriate representation before the 1st respondent, in which event the 1st respondent shall consider the same and pass appropriate orders thereon, as expeditiously as

possible, at any rate, within a period of two months from the date of receipt of such representation. The petitioner shall produce a copy of this Writ Petition and a certified copy of this judgment before the 1st respondent for compliance.

This Writ Petition is disposed of as above.

Sd/-

ANIL K.NARENDRA, JUDGE

skj

True copy

P.A to Judge