

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 18TH DAY OF DECEMBER 2015/27TH AGRAHAYANA, 1937

WP(C).No. 15511 of 2015 (L)

PETITIONER:

**ARUN.P, PWD CONTRACTOR,
"PARASAKTHI", SHORANUR-2,
PALAKKAD - 679 122.**

**BY SMT.SUMATHY DANDAPANI (SENIOR ADVOCATE)
ADV. SRI.MILLU DANDAPANI**

RESPONDENT(S):

- 1. THE ASSISTANT EXECUTIVE ENGINEER,
PWD (ROADS SUB DIVISION) THALAPPILLY,
WADAKKANCHERRY, THRISSUR - 680 590.**
- 2. THE EXECUTIVE ENGINEER,
PWD ROADS DIVISION CHEMBUKAVU,
THRISSUR - 680 020**
- 3. THE SUPERINTENDING ENGINEER,
PWD (ROADS & BRIDGES)' CENTRAL CIRCLE,
ALUVA - 683 191.**

BY GOVERNMENT PLEADER SRI.MANOJ KUNJACHAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 18-12-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1 : PHOTOCOPY OF INTIMATION DATED 21/3/2013 RECEIVED BY THE PETITIONER FROM THE 3RD RESPONDENT VIDE NO.DTT-2150/2012.
- EXT.P2 : PHOTOCOPY OF ESTIMATE PREPARED FOR CONSTRUCTION OF ROAD, PYNKULAM- THOZHUPADAM CANAL ROAD, REFERRED TO IN THE WRIT PETITION.
- EXT.P3 : PHOTOCOPY OF THE AGREEMENT DATED 1/4/2013 EXECUTED INTO BETWEEN THE PETITIONER AND 3RD RESPONDENT.
- EXT.P4 : PHOTOCOPY OF ACKNOWLEDGEMENT FROM FOR HANDING OVER THE SITE ON 5/4/13 REFERRED TO IN THE WRIT PETITION.
- EXT.P5 : PHOTOCOPY OF BILL THAT HAS BEEN PREPARED FROM THE OFFICE OF THE 2ND RESPONDENT.
- EXT.P6 : PHOTOCOPY OF PAY INTIMATION DATED 11/8/2014 RECEIVED BY THE PETITIONER FROM THE 2ND RESPONDENT.
- EXT.P7 : PHOTOCOPY OF LETTER DATED 21/11/2013 OF THE PETITIONER TO THE 3RD RESPONDENT.
- EXT.P8 : PHOTOCOPY OF INTIMATION DATED 18/12/2013 SENT BY THE 1ST RESPONDENT TO THE PETITIONER VIDE NO.B.28/2012.
- EXT.P9 : PHOTOCOPY OF REPRESENTATION SUBMITTED BY THE PETITIONER ON 23/12/2013 TO THE 1ST RESPONDENT WITH COPIES TO RESPONDENTS 2 AND 3.
- EXT.P10 : PHOTOCOPY OF REQUEST LETTER SUBMITTED BY THE PETITIONER ON 16/1/2014 TO THE 3RD RESPONDENT.

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.MUHAMED MUSTAQUE, J.

W.P.(C).No.15511 of 2015

Dated this the 18th Day of December, 2015

J U D G M E N T

This writ petition is filed by a Contractor, who was awarded the work of widening and black topping of road between Painkulam and Thozhupadam within the Panjal Grama Panchayat. He appears to have executed 80% of the work. He has carried out substantial work. He could not complete the work for the reason that an interim order has been passed by this Court in W.P.(C).No. 4818 of 2014, interdicting the Department not to proceed with the work without conducting survey.

2. The petitioner now seeks to absolve from the work as he is no longer interested in executing the work.

3. In the counter affidavit filed by the State it is stated that it is on account of the protest from the local people regarding alignment, PWD Engineers as well as the Contractors were not permitted to complete the work. It is further stated in para.12 as follows:

“12. Sri Venu Balan, a local person, filed a writ petition in the Hon.High Court as per W.P.(C).No. 4818 of 2014 for survey of land and for eviction encroachers and for demarcating boundaries. The Hon High Court rendered an interim order for conducting survey of land and for restrain execution of any work till the survey procedure completed. The revenue officers started survey process as per Order of the Hon High Court and they have put boundary stones. PWD has submitted a representation in the Hon High Court to vacate the stay order. The execution of the work has been idle till date.”

4. Considering the nature of the issues involved, this Court is of the view that the petitioner shall be absolved from the work subject to satisfaction of the work undertaken by the petitioner. Therefore, if no other defect exists in the work so far executed by the petitioner, the dues shall be settled to the petitioner within two months after adjusting cost of any materials supplied to the petitioner from the final bill.

The writ petition is disposed of as above. No costs.

Sd/

A.MUHAMED MUSTAQUE, JUDGE

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