

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

WP(C) .No. 15648 of 2015 (E)

PETITIONER(S) :

G.MADHAVAN NAIR,
JYOTHIS, MAHAVISHNU NAGAR 163,
THIRUMULLAVARAM P.O.,
KOLLAM - 691 012.

BY ADVS.DR.K.P.SATHEESAN (SR.)
SRI.P.MOHANDAS (ERNAKULAM)
SRI.ANOOP.V.NAIR
SRI.S.VIBHEESHANAN
SRI.N.MANU THAMPI.

RESPONDENT(S) :

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1. CORPORATION OF KOLLAM,
REPRESENTED BY ITS SECRETARY,
CORPORATION OFFICE,
KOLLAM - 691 001.
 2. THE SUB INSPECTOR OF POLICE,
KOLLAM WEST POLICE STATION,
KOLLAM - 691 001.
 3. J. RAJAN,
GOVERNMENT CONTRACTOR,
RAJ BHAVAN, MUKAHTHALA P.O.,
KOLLAM - 691 577.

BY GOVERNMENT PLEADER SMT.ANITHA RAVEENDRAN &
BY SRI.M.K.CHANDRA MOHAN DAS, SC,K OLLAM MPT.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
30-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT. P1: TRUE COPY OF THE PROCEEDINGS ISSUED BY THE CORPORATION ENGINEER,
KOLLAM MUNICIPALITY CORPORATION DATED 11.07.2013.

EXT. P2: TRUE COPY OF THE RE TENDER SCHEDULE PUBLISHED BY THE SUPERINTENDING
ENGINEER OF THE FIRST RESPONDENT CORPORATION DATED 30.06.2014.

EXT. P3: TRUE COPY OF THE COMMUNICATION ISSUED BY THE FIRST RESPONDENT
AWARDING THE CONTRACT TO THE 3RD RESPONDENT DATED 20.01.2015.

EXT. P4: TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE
FIRST RESPONDENT DATED 17.05.2015

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.V.RAMAKRISHNA PILLAI, J

WPC No.15648 of 2015

Dated this the 30th day of July, 2015

JUDGMENT

The petitioner has approached this Court seeking the following reliefs:-

i) to issue a writ of mandamus or order or direction to the first respondent to take appropriate action against the 3rd respondent for completing the work awarded to him as per Ext.P3.

ii) to issue a writ of mandamus or order or direction to the third respondent to complete the work as per Ext.P3, if necessary, with the assistance of the 2nd respondent.

iii) to issue a writ of mandamus or order or direction to respondents 1 and 2 to complete the work awarded to the 3rd respondent as per Ext.P3 as expeditiously as possible and at any rate within a time limit that may be fixed by this Court.

iv) to issue such other appropriate writ, order or direction as is deemed just and necessary in the circumstances of the case.

2. The petitioner surrendered a part of his property on the eastern side to the Corporation of Kollam for laying RCC pipes to facilitate flow of water from his property

which is low lying to the main drainage which passes along the side of the National Highway. Accordingly, the first respondent invited tenders and the work was awarded to the third respondent. Though the third respondent collected some RCC pipes, thereafter nothing has been done. He is not performing the contract stating that there is some objection against the drawing of RCC pipes. It is only a ruse on the part of the third respondent, not to perform the contract. The petitioner's house is at a low lying area and whenever rain occurs it becomes flooded. That is why the petitioner surrendered a part of his property for laying the pipes. The Corporation is also fully aware of the necessity for drawing the RCC pipes. However, respondents 1 and 2 are not taking any action for completing the work by the third respondent. It is with this background the petitioner has come up before this Court.

3. The respondent Corporation had entered appearance. No counter has been filed.

4. Though notice to R3 has been served, he did not

turn up.

5. I have heard the learned senior counsel for the petitioner and the learned standing counsel for the respondent Corporation.

6. The case of the petitioner that he has surrendered a portion of his property voluntarily for drawing RCC pipes to the main drain on the side of the National Highway is not in dispute. If a pipe line is drawn, the residential compound of the petitioner would not be flooded during the rainy season. The case of the petitioner that even though the property of the petitioner was taken over, RCC pipes were not laid. It is evident from Ext.P3 that the work was awarded to the third respondent.

7. The learned senior counsel for the petitioner would point out that pipes were collected at the work site by the third respondent. However, the third respondent could not execute the work on account of the objection from the local residents. The petitioner is in darkness as to who is the objector. The petitioner points out that this is only a ruse on the part of the third respondent to avoid the work.

As the petitioner has surrendered his property at the instance of the first respondent, the first respondent is legally bound to see that the pipes are laid by the third respondent who was entrusted with the work. Surrendering of the petitioner's property under the firm belief that the RCC pipes would be drawn to drain out the water collected in his property to the main drain and the acceptance of the same binds the respondent Corporation on the principle of promissory estoppel. Therefore, this Court is of the view that the petitioner is entitled to the relief as prayed for in this writ petition.

In the result, this writ petition is disposed of directing the respondent Corporation to get the work made mention of in Ext.P3 executed through the third respondent within a period of one month from the date of receipt of a copy of this judgment.

It is hereby made clear that if there is any third party interference against the execution, the work shall be implemented, if necessary with the aid of the second respondent who is the Station House Officer, Kollam West

Police Station. If the respondent Corporation seeks the help of the second respondent in the matter, the second respondent shall afford sufficient protection to the respondent Corporation in getting the works executed by the respondent Corporation through the third respondent.

**sd/- A.V.RAMAKRISHNA PILLAI
JUDGE**

css/

true copy

P.S.TO JUDGE