

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 29TH DAY OF OCTOBER 2015/7TH KARTHIKA, 1937

WP(C).No. 19939 of 2011 (N)

PETITIONER(S):

**VISWAMBHARAN, S/O.KUMARAN, GURUVANDANAM,
KOTTAPPURAM MURI, PARAVOOR, KOLLAM DISTRICT.**

**BY ADVS.SRI.B.MOHANLAL
SRI.SAIJU S.
SRI.T.PRASAD**

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY THE SECRETARY
TO GOVERNMENT, PORT AND HARBOUR ENGINEERING
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM-1.**
- 2. THE SUPERINTENDING ENGINEER, HARBOUR
ENGINEERING SOUTH CIRCLE, MANACAUD P.O.,
THIRUVANANTHAPURAM, PIN - 695 009.**
- 3. THE EXECUTIVE ENGINEER, HARBOUR
ENGINEERING, ASRAMAM P.O., KOLLAM - 691 001.**
- 4. THE ASSISTANT EXECUTIVE ENGINEER,
HARBOUR ENGINEERING ASRAMAM P.O., KOLLAM - 691 001.**
- 5. SRI.ASHOK KUMAR C.S., S/O.CHELLAPPAN,
CONTRACTOR, SHANTHI, SAI NAGAR,
PAPPANAMCODE P.O., THIRUVANANTHAPURAM - 695 018.**
- 6. SRI.R.BABU,S/O.RAGHAVAN, EDAYILA VEEDU,
KADAPPAKKADA P.O., KOLLAM - 691 008.**

**R1-R4 BY SENIOR GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR
R5 & R6 BY ADV. SRI.SERGI JOSEPH THOMAS**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
29-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1: THE TRUE COPY OF THE LICENSE NO.VA/SENH/SC/TVM ISSUED BY THE
2ND RESPONDENT TO THE PETITIONER.**

**EXT.P2: THE TRUE COPY OF THE POWER OF ATTORNEY DTD.1.4.2011 EXECUTED BY
THE 5TH RESPONDENT TO THE 6TH RESPONDENT.**

**EXT.P3: THE TRUE COPY OF THE COMMUNICATION NO.D1/242/09/AEE DTD. 23.5.2011
ISSUED BY THE 4TH RESPONDENT.**

**EXT.P4: THE TRUE COPY OF THE AGREEMENT DTD.4.7.2011 ENTERED INTO THE
5TH RESPONDENT AND THE PETITIONER.**

**EXT.P5: THE TRUE COPY OF THE COMPLAINT DTD.16.7.2011 SUBMITTED BY THE
PETITIONER BEFORE THE 2ND RESPONDENT.**

**EXT.P6: TRUE COPY OF THE ORDER NO.D-3060/09 SE DTD.18.7.2011 ISSUED BY THE
2ND RESPONDENT.**

**EXT.P7: THE TRUE COPY OF THE APPLICATION DTD.18.8.2011 SUBMITTED BY THE
PETITIONER BEFORE THE 2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.M. SHAFFIQUE, J.

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W.P. (C) No. 19939 of 2011

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Dated this, the 29th day of October, 2015

J U D G M E N T

Petitioner has approached this Court seeking for the following reliefs:-

“(i) To call for the records leading to the Contract Work of Kollam-Thankassery Port-Second Phase Development from the Respondents.

(ii) To issue a writ of mandamus or other appropriate writ order of direction commanding the Respondents to disburse Rs.27 Lakhs to the petitioner towards the work executed by the petitioner from the Contract Bill of Kollam-Thankassery Port Second Phase Development Balance Yard Development within a stipulated time as directed by this Hon'ble Court.

(iii) To issue a writ of mandamus or other appropriate writ order of direction commanding the Respondents to disburse Rs.27 lakhs to the petitioner as per Order No:D1-3069/2009/SE dated 18.7.2011 of the 2nd respondent towards the work executed by the petitioner from the Part Bill of Kollam-Thankassery Port Second Phase Development Balance Yard Development within a stipulated time as directed by this Hon'ble Court.

(iv) To declare that the petitioner is entitled to

-:2:-

get Rs.27 lakhs towards the work executed by the petitioner from the Contract Bill Kollam-Thankassery Port Second Phase Development Balance Yard Development”.

2. Admittedly petitioner has nothing to do with the contract awarded by respondents 2 to 4. The 5th respondent was the contractor who entered into an agreement with the 6th respondent to carry on with the work. 6th respondent entered into a contract with the petitioner to carry out the work. Apparently, petitioner is a sub contractor of the sub contractor of the original contractor. Petitioner claims about ₹27 lakhs and contends that the value of the work done by him has not been paid. It is stated that he filed a complaint before the 3rd respondent, who had withheld ₹27,00,000/- from the bill of the 5th respondent.

3. The issue raised by the petitioner is in regard to a private contract between the petitioner and the 6th respondent, which cannot be adjudicated by this Court in a petition filed under Article 226 of the Constitution of India. It is clearly a matter arising in the realm of a private contract and no direction can be issued either to 5th respondent or 6th respondent or to the official respondents in this matter.

W.P(C) No.19939/11

-:3:-

There being no merits in the writ petition, the same is dismissed reserving right of the petitioner to approach the Civil Court, if so advised.

Sd/-
A.M. SHAFFIQUE, JUDGE

Rp
30/10/2015

//True Copy//

P.S to Judge