

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 25TH DAY OF SEPTEMBER 2015/3RD ASWINA, 1937

WP(C).No. 22331 of 2009 (J)

PETITIONER :

**THE SECRETARY,
MAVELIKKARA PRIMARY CO-OPERATIVE
AGRICULTURAL AND RURAL DEVELOPMENT
BANK LIMITED NO.336. MAVELIKKARA.**

**BY ADVS.SRI.K.HARILAL
SRI.R.GOPAN
SRI.M.N.SANDEEP**

RESPONDENT(S) :

**1. MINOSH CONSTRUCTIONS,
ENGINEERS AND CONTRACTORS, KOTTARAKAVU, MAVELIKKARA
REP. BY MANOHARAN NAIR, MANAGING PARTNER
MANOSHDEEP, KOTTARAKAVU, MAVELIKKARA.**

**2. JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES,
ALAPPUZHA.**

**R1 BY ADVS. SRI.A.K.ABDUL AZEEZ
SRI.C.D.ANIL**

R2 BY GOVT. PLEADER SRI. THOMAS JOHN AMBOOKEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 25-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF THE COMPLAINT NO. 2596/2007 FILED BY THE 1ST RESPONDENT BEFORE THE HONOURABLE KERALA LOK AYUKTA DATED 31.12.2007.
- EXT.P2 COPY OF THE OBJECTION SUBMITTED BY THE PETITIONER IN COMPLAINT NO. 2596/2007 BEFORE THE HONOURABLE KERALA LOK AYUKTA DATED 4.11.2008.
- EXT.P3 COPY OF THE ORDER DATED 8.6.2009 IN COMPLAINT NO. 2596/2007 PASSED BY THE UPA LOK AYUKTA.
- EXT.P4 COPY OF THE CONTRACT AGREEMENT DATED 4.10.2000 EXECUTED BETWEEN THE PETITIONER AND 1ST RESPONDENT.
- EXT.P5 COPY OF OP (ARBITRATION) FILED BY THE 1ST RESPONDENT BEFORE THE 2ND RESPONDENT DATED 17.10.2004.

RESPONDENT'S EXHIBITS :

- EXT.R1(a) : COPY OF THE INTIMATION GIVEN TO THE PETITIONER BY THE 1ST RESPONDENT DATED 26.4.04.
- EXT.R1(b) COPY OF THE INTIMATION GIVEN TO THE PETITIONER BY THE RESPONDENT DATED 12.8.04.
- EXT.R1(c) OFFICE COPY OF THE PROCEEDINGS INITIATED BEFORE THE 2ND RESPONDENT BY THE 1ST RESPONDENT DATED 17.10.04.
- EXT.R1(d) COPY OF THE INTIMATION GIVEN TO THE PETITIONER BY THE 1ST RESPONDENT DATED 22.6.2009 CALLING UPON THE PETITIONER TO COMPLY WITH THE EXT. P3 ORDER.

//TRUE COPY//

P.S. TO JUDGE

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.22331 of 2009

Dated this the 25th day of September, 2015

JUDGMENT

This writ petition is filed challenging Ext.P3 order of the Kerala Lok Ayukta. It appears that the first respondent herein approached the Lok Ayukta. They raised a complaint that the petitioner in spite of completing the construction of the work failed to honour final bill and evading payment.

2. By Ext.P3 order, the Upa Lok Ayukta ordered the petitioner to pay Rs.1,37,942/- with 9% interest within one month from the date of receipt of a copy of this order.

3. The petitioner challenges Ext.P3 order in this writ petition. The petitioner's case is that the Upa Lok Ayukta has no jurisdiction to entertain the complaint and pass the order.

4. In fact, the petitioner raised their maintainability before the Upa Lok Ayukta. The Upa Lok Ayukta considered the above and found as follows:

“The first question arising for consideration is whether this forum has jurisdiction to entertain a

complaint of this nature. According to the 1st respondent, the dispute between the parties is of civil nature and therefore, this forum has no jurisdiction to settle the dispute. I cannot agree. No doubt as per Section 8(1) of the Kerala Lok Ayukta Act, the Lok Ayukta or Upa Lok Ayukta shall not conduct any investigation under this Act in the case of a complaint involving a grievance in respect of any action, if such action relates to any matter specified in the second schedule. Clause(c) of the 2nd schedule reads as follows: "Administrative action taken in matters which arise out of the terms of a contract governing purely commercial relations of the administration with customers or suppliers except where the complainant alleges harassment or gross delay in meeting contractual obligation." Though the dispute in this case arises out of the terms of a contract the complainant has alleged gross delay in meeting the contractual obligation. Therefore, this forum has ample jurisdiction to settle the dispute between the parties. Another contention raised by the 1st respondent is that the complainant in this case does disclose a grievance or allegation as defined in the Kerala Lok Ayukta Act. According to me this contention of the 1st respondent is baseless. As per Section 2(h) "grievance means a claim by a person that he sustained injustice or undue hardship in

consequence of maladministration”. In this case the undue delay in meeting the contractual obligation is nothing but maladministration.”

The Upa Lok Ayukta after adverting to the factual situations have found out the undue delay in meeting the contractual obligation is nothing but maladministration. The factual finding is entered as above cannot be assailed before this Court by invoking the public law remedy under the Constitution unless such factual finding is perverse or palpably erroneous. Essentially, maladministration has been found out by appreciating facts. Therefore, there is no infirmity with the above order. Accordingly, this writ petition is dismissed. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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