

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 16TH DAY OF JUNE 2015/26TH JYASHTA, 1937

WP(C).No. 21725 of 2013 (M)

PETITIONER :

UMMER K., AGED 26 YEARS,
S/O.SAJID HAJI, RESIDING AT KULATHINGAL HOUSE
THATHANAMPULLY POST, KULLUKKALLOOR, PATTAMBI
KERALA-679 337.

BY ADVS.SRI.C.V.MANUVILSAN
SRI.P.G.SURESH
SRI.G.SUDHEER (THURAVOOR)
SMT.K.VIDYA
SRI.RAJAN VISHNURAJ

RESPONDENT(S) :

1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY
DEPARTMENT OF LOCAL SELF GOVERNMENT DEPARTMENT
SECRETARIAT ANNEX, SECRETARIAT
THIRUVANANTHAPURAM, PIN-695001.
2. KULUKKALLUR GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY, MULAYANKAVU POST
KULUKKALLUR, PATTAMBI, PALAKKAD-679 337.
3. THE SECRETARY,
KULUKKALLUR GRAMA PANCHAYATH, MULAYANKAVU P.O.,
KULUKKALLUR, PATTAMBI, PALAKKAD-679337.
4. THE ASSISTANT ENGINEER,
LSGD KULUKKALLUR GRAMA PANCHAYATH, KULUKKALLUR
MULAYANKAVU P.O., KULUKKALLUR, PATTAMBI
PALAKKAD-679 337.
5. ASSISTANT EXECUTIVE ENGINEER,
LSGD SUB DIVISION, PATTAMBI BLOCK PANCHAYATH
PATTAMBI P.O., PALAKKAD-679303.
6. THE DEPUTY DIRECTOR,
OFFICE OF THE DEPUTY DIRECTOR OF PANCHAYATHS
PALAKKAD DISTRICT-678001.

R1, R4, R5 & R6 BY GOVT. PLEADER SRI. K.T. LILLY
R2 & R3 BY ADVS. SRI.T.C.SURESH MENON
SRI.P.S.APPU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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...2/-

APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1: PHOTOCOPY OF THE PROJECT FORMATION FORM OF THE 11TH PEOPLE'S PLANNING PROGRAMME.
- EXT. P2: PHOTOCOPY OF THE MINUTES OF THE FORMATION MEETING OF THE BENEFICIARY COMMITTEE IN THE YEAR 2009.
- EXT. P3: PHOTOCOPY OF THE ESTIMATE REPORT PREPARED BY THE 4TH RESPONDENT IN THE YEAR 2009.
- EXT. P3(a): PHOTOCOPY OF THE SITE PLAN PREPARED BY THE 4TH RESPONDENT IN THE YEAR 2009.
- EXT. P4: PHOTOCOPY OF THE AGREEMENT NO.28/AE/LSGD/2009-10 BETWEEN THE CONVENOR OF THE BENEFICIARY COMMITTEE AND THE 4TH RESPONDENT DATED 25.1.2010.
- EXT. P5: PHOTOCOPY OF THE LETTER DATED 28.3.2010.
- EXT. P6: PHOTOCOPY OF THE WORK SLIP.
- EXT. P6(a): PHOTOCOPY OF THE STATEMENT ABOUT THE VALUE OF WORK DONE ISSUED BY THE 3RD RESPONDENT.
- EXT. P7: PHOTOCOPY OF THE RESIGNATION LETTER OF THE COMMITTEE MEMBERS SUBMITTED TO THE 2ND RESPONDENT DATED 19.01.2012.
- EXT. P8: PHOTOCOPY OF THE MINUTES OF THE MEETING DATED 24.01.2012 HELD BY THE BENEFICIARIES OF THE ROAD COMMITTEE.
- EXT. P9: PHOTOCOPY OF THE RESOLUTION NO.8(3) DATED 19.1.2012.
- EXT. P10: PHOTOCOPY OF THE LAWYER NOTICE DATED 20.08.2012 TO THE 2ND RESPONDENT.
- EXT. P11: PHOTOCOPY OF THE REPLY LEGAL NOTICE DATED 18.10.2012 TO THE PETITIONER.
- EXT. P12: PHOTOOCOPY OF THE APPLICATION DATED 10.04.2013 UNDER RTI TO THE 2ND RESPONDENT BY K.KHADER HAJI.
- EXT. P13: PHTOTOCOPY OF THE REPLY GIVEN BY THE 2ND RESPONDENT TO THE APPLICANT.
- EXT. P14: PHOTOCOPY OF THE REPLY DATED 07.05.2013 ALONG WITH REPLY OF THE QUERIES IN EXHIBIT P12 APPLICATION.
- EXT. P15: PHOTOCOPY OF THE REPRESENTATION DATED 19.06.2013 PREFERRED BEFORE THE 4TH RESPONDENT BY THE 2ND RESPONDENT.

(Contd...)

WP(C).No. 21725 of 2013 (M)

- EXT. P16: PHOTOCOPY OF THE APPEAL DATED 10.07.2013.**
- EXT. P17: PHOTOCOPY OF THE REPLY DATED 17.7.2013 GIVEN BY THE 2ND AND 4TH RESPONDENT.**
- EXT. P18: PHOTOCOPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT PANCHAYATH BY STATING ALL THE FACTUAL POSITIONS.**
- EXT. P19: PHOTOCOPY OF THE COMPLAINT PREFERRED BY THE PETITIONER TO THE RESPONDENTS NO.1 AND 6, BY HIGHLIGHTING THE SHEER INJUSTICE AND BUREAUCRATIC ARROGANCE COMMITTED BY THE RESPONDENTS NO.2-4.**
- EXT. P20: PHOTOCOPY OF THE RESOLUTION OF THE BENEFICIARY COMMITTEE DATED 06.08.2012.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

A.M.SHAFFIQUE, J

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W.P.C.No.21725 of 2013

Dated this the 16th day of June 2015

J U D G M E N T

Petitioner has approached this Court inter alia contending that he, being the Convener of a beneficiary committee formed for the purpose of construction of a road Mullathupadi - Valiaparambu Road vide Project No.196 of the Kulukkallur Grama Panchayath, has not been paid the amount despite the completion of the said work. He had submitted Ext.P19 representation to respondents 1 and 6; but so far no action has been taken in the matter and therefore the petitioner has approached this Court for a direction to disburse the amount to the beneficiary committee. It is inter alia stated by the petitioner that though the work was originally granted to the beneficiary committee in which another person was Convener, due to ill health, Panchayath had requested the Beneficiary Committee in which the petitioner was the Convener to

perform the work. Reference was also made to Ext.P9 resolution of the Panchayath dated 25/01/2012.

2. Counter affidavit has been filed by the respondent Panchayath inter alia stating that no agreement was executed with the petitioner and that the work was entrusted to a beneficiary committee in which one K.K.Kunju Mohammed was the Convener and Mr.V.M.Hussain was the Chairman. Agreement was also executed on 25/01/2010. It is also stated that the new Committee headed by the petitioner has not entered into any agreement with the Panchayath. Further, it is stated that the proposed road is to run along the properties of 9 families who are yet to surrender their land. Having regard to the aforesaid factual situation, it was decided not to release any amount to the petitioner.

3. Learned Government Pleader, on instructions, would submit that on verification of the records, it was found that the work was entrusted to a beneficiary committee in

which another person was Convener and that three families have not surrendered their land for formation of the road.

4. Contentions urged on behalf of the Panchayath as well as other Governmental authorities have been disputed by the petitioner. Strong reliance has been placed by the learned counsel for the petitioner on Ext.P9 to indicate that it was in the light of the resolution passed by the Panchayath that the petitioner had undertaken the work as Convener of the beneficiary committee which cannot be disputed. It is also submitted that the only reason for not paying the amount is on account of the fact that an agreement was executed with another person. But the fact remains that the petitioner, based on Ext.P9 resolution, had undertaken the work and has completed the same.

Having regard to these factual disputes, I am of the view that this matter has to be verified by the 6th respondent. If the petitioner, as Convener of the beneficiary Committee, has in fact completed the work or atleast a

portion of it, the Panchayath is bound to pay the amount atleast to the extent of work completed by him. In the said circumstances, this writ petition is disposed of as under:

Petitioner shall supply a copy of the representation along with a copy of this judgment to the 6th respondent, who shall conduct enquiry into the matter and pass appropriate orders within a period of two months from the date of receipt of a copy of this judgment. Decision shall be taken after hearing the respondent Panchayath as well.

(sd/-)

(A.M.SHAFIQUE, JUDGE)

jsr

