

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 20TH DAY OF JULY 2015/29TH ASHADHA, 1937

WP(C).No. 24453 of 2012 (F)

PETITIONER(S) :

**WE BUILD (P) LTD T.K RAJAN (JV),
HAVING ITS REGISTERED OFFICE AT TC16/713, JAGATHY,
THIRUVANANTHAPURAM- 695 014, REPRESENTED BY
THE MANAGING DIRECTOR WEBUILD(P)LTD.**

**BY ADVS.SRI.A.N.RAJAN BABU
SRI.P.GOPALAKRISHNAN (MVA)
SRI.A.R.EASWAR LAL**

RESPONDENT(S) :

- 1. GOVERNMENT OF KERALA,
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT.,
LOCAL SELF GOVERNMENT DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, PIN- 695 001.**
- 2. EMPOWERED COMMITTEE OF KERALA SUSTAINABLE URBAN
DEVELOPMENT PROJECT (KSUDP), REPRESENTED BY
THE PROJECT DIRECTOR KSDUP, LOCAL SELF GOVERNMENT
DEPARTMENT, GOVERNMENT OF KERALA, 5TH FLOOR,
TRANS TOWER, VAZHUTHAKCAD, THIRUVANANTHAPURAM- 690 014.**
- 3. PROJECT DIRECTOR,
PROJECT MANAGEMENT UNIT (PMU), PROJECT DIRECTOR
KSDUP, LOCAL SELF GOVERNMENT DEPARTMENT,
GOVERNMENT OF KERALA, 5TH FLOOR, TRANS TOWER,
VAZHUTHAKCAD, THIRUVANANTHAPURAM- 690 014.**
- 4. PROJECT MANAGER,
PROJECT IMPLANTATION UNIT (PIU), KERALA SUSTAINABLE
URBAN DEVELOPMENT PROJECT (KSUDP), CORPORATION
BUILDING ANNEX, THIRUVANANTHAPURAM.**
- 5. CORPORATION OF THIRUVANANTHAPURAM,
REPRESENTED BY ITS SECRETARY, THIRUVANANTHAPURAM
CORPORATION BUILDING, THIRUVANANTHAPURAM.**

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*** ADDITIONAL R6 IMPEADED**

**6. ASIAN DEVELOPMENT BANK INDIA,
RESIDENT MISSION NO.4, SAN MARTIN MARG, CHANAKAYAPURI,
NEW DELHI- 110 021.**

*** ADDITIONAL R6 IS IMPEADED AS PER ORDER DATED 17.12.2013 IN
I.A.NO.16846 OF 2013.**

**R1 TO R4 BY GOVERNMENT PLEADER SRI.MANOJ.P.KUNJACHAN
R5 BY SRI.N.NANDAKUMARA MENON (SENIOR ADVOCATE)
ADV. SRI.P.K.MANOJKUMAR**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 20-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

**EXHIBIT P1: TRUE COPY OF THE AGREEMENT NO.10/PIU/KSUDP/URT
DATED 07.11.2008.**

**EXHIBIT P2: TRUE EXTRACT OF THE RELEVANT PART OF THE AGENDA NOTES
ON 16.02.2010.**

**EXHIBIT P3: TRUE EXTRACT OF THE RELEVANT PART OF THE MINUTES OF
EMPOWERED COMMITTEE DATED 17.02.2010.**

**EXHIBIT P4: TRUE AND RELEVANT EXTRACT OF THE CLAUSES 46 OF G.C.C
FOR EXHIBIT P1 AGREEMENT.**

**EXHIBIT P4(A): TRUE AND RELEVANT EXTRACT OF THE CLAUSE (46(1) OF
P.C.C FOR EXHIBIT P1 AGREEMENT**

**EXHIBIT P5: TRUE COPY OF THE NOTICE OF TERMINATION DATED 30.03.2010
OF 4TH RESPONDENT.**

EXHIBIT P6: TRUE COPY OF LETTER DATED 17.04.2010 OF PETITIONER.

EXHIBIT P7: TRUE EXTRACT OF THE CLAUSES 57 OF G.C.C.

**EXHIBIT P8: TRUE COPY OF THE UTILIZATION REPORT DATED 10.05.2010
SUBMITTED BY PETITIONER.**

**EXHIBIT P9: TRUE COPY OF PETITIONER'S LETTER DATED 11.05.2010 TO
1ST RESPONDENT.**

EXHIBIT P10: TRUE COPY OF LETTER DATED 07.10.2011 TO 1ST RESPONDENT.

**EXHIBIT P11: TRUE COPY OF THE LETTER DATED 05.11.2011 OF
4TH RESPONDENT FORWARDING FRL.**

**EXHIBIT P12: TRUE COPY OF THE LETTER DATED 29.02.2012 OF
4TH RESPONDENT.**

EXHIBIT P13: TRUE EXTRACT OF CLAUSE 37 OF G.C.C.

**EXHIBIT P14: TRUE COPY OF THE TERMINATION NOTICE DATED 03.03.2014 OF
4TH RESPONDENT.**

EXHIBIT P15: TRUE COPY OF THE LETTER DATED 12.03.2012 OF PETITIONER.

EXHIBIT P16: TRUE COPY OF THE LETTER DATED 27.03.2012 OF PETITIONER.

EXHIBIT P17: TRUE COPY OF THE LETTER DATED 26.06.2012 OF PETITIONER.

EXHIBIT P18: TRUE COPY OF LETTER DATED 12.07.2012 OF PETITIONER.

EXHIBIT P19: TRUE COPY OF THE LETTER DATED 10.10.2012 OF PETITIONER.

EXHIBIT P20: TRUE COPY OF THE CANCELLATION LETTER DATED 19.11.2009 OF THE 4TH RESPONDENT.

EXHIBIT P21: TRUE COPY OF THE PETITION DATED 30.06.2012 TO THE HON'BLE MINISTER.

EXHIBIT P22: TRUE COPY OF THE SUPPLEMENTAL AGREEMENT DATED 25.07.2012.

EXHIBIT P23: TRUE COPY OF THE LETTER DATED 01.08.2012 OF 4TH RESPONDENT.

EXHIBIT P24: TRUE COPY OF THE LETTER DATED 13.08.2012 OF 4TH RESPONDENT.

EXHIBIT P25: TRUE COPY OF AGENDA NOTE DATED 14.09.2012 OF 3RD RESPONDENT (EXTRACT).

EXHIBIT P26: TRUE COPY OF THE PETITION DATED 19.09.2012 OF THE HON'BLE MINISTER.

EXHIBIT P27: TRUE EXTRACT OF TECHNICAL CIRCULAR OF KSUDP DATED 15.06.2011.

EXHIBIT P28: TRUE COPY OF THE LETTER DATED 10.10.2012 OF THE PETITIONER.

EXHIBIT P29: A TRUE COPY OF THE SUPPLEMENTAL AGREEMENT DATED 06.12.2012.

EXHIBIT P30: A TRUE COPY OF THE APPLICATION OF TIME DATED 26.11.2012.

EXHIBIT P31: A TRUE COPY OF THE LETTER DATED 19.12.2012 OF THE 4TH RESPONDENT.

EXHIBIT P32: A TRUE COPY OF THE LETTER DATED 26.10.2010 BY THE PETITIONER.

EXHIBIT P33: A TRUE COPY OF THE REPLY TO THE LETTER OF 4TH RESPONDENT BY THE PETITIONER DATED 27.09.2013.

EXHIBIT P34: A TRUE COPY OF THE EXTRACT CLAUSE 24 OF G.C.C.

EXHIBIT P35: A TRUE COPY OF THE ORDER OF G.O(RT)NO.2765/2013/LSGD DATED 11.11.2013.

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RESPONDENT(S)' EXHIBITS :

**EXHIBIT R4(A): TRUE PHOTOCOPY OF THE LETTER DATED 02.04.2009 OF
 THE PETITIONER.**

**EXHIBIT R4(B): A TRUE PHOTOCOPY OF THE ENQUIRY REPORT
 SUBMITTED BY THE ENQUIRY COMMITTEE CONSTITUTED
 BY THE 4TH RESPONDENT.**

//TRUE COPY//

PA.TO JUDGE.

Msd.

K. VINOD CHANDRAN, J.

W.P(C). No.24453 of 2012

Dated this the 20th day of July, 2015.

JUDGMENT

The writ petition projects disputed questions of fact, which however cannot be resolved by this Court sitting in Article 226 of the Constitution of India. The petitioner necessarily will have to take appropriate proceedings before the Civil Court or arbitration proceedings, if so and as advised.

Leaving open such remedy to the petitioner, the writ petition would stand closed.

Sd/-

**K. VINOD CHANDRAN,
JUDGE**

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