

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 23RD DAY OF JULY 2015/1ST SRAVANA, 1937

WP(C).No. 21427 of 2015 (C)

PETITIONER(S):

**ABY T.J., AGED 48 YEARS,
SON OF MR. T.A.JOSEPH, THALIYADIL HOUSE,
THRIKKAKARA (PO), MYTHRIPURAM ROAD, THRIKKAKARA (PO)
ERNAKULAM DISTRICT, PIN-682 021.**

**BY ADVS.SRI.SHAJI CHIRAYATH
SMT.JIJI M. VARKEY
SMT.SAVITHA GANAPATHIYATAN
SRI.M.M.SHAJAHAN
SRI.M.RETHEESHKUMAR**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF FISHERIES, SECRETARIAT,
THIRUVANANTHAPURAM, PIN-695 001.**
- 2. SUPERINTENDING ENGINEER,
HARBOUR ENGINEERING CENTRAL CIRCLE, 2ND FLOOR,
KOCHI CORPORATION SHOPPING COMPLEX CUM OFFICE BUILDINGS,
HAJEE K.C.M, MATHER ROAD, ERNAKULAM, PIN-682 018.**
- 3. FEDERAL BANK LIMITED,
KAKKANAD BRANCH, GROUND FLOOR, VISMAYA,
INFOPARK, KUSUMAGIRI (PO), INFOPARK ROAD,
KAKKANAD, KERALA,
PIN 682030 REPRESENTED BY ITS BRANCH MANAGER.**

R1 & 2 BY GOVERNMENT PLEADER SMT.C.K.SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 - COPY OF THE AGREEMENT CONSTRUCTION OF A BRIDGE AT PATHIYANKARA IN ALAPPUZHA BETWEEN PETITIONER AND THE 2ND RESPONDENT.**
- P2 - COPY OF THE POWER OF ATTORNEY ISSUED BY THE PETITIONER IN FAVOUR OF THE 3RD RESPONDENT.**
- P3 - COPY OF THE LETTER ISSUED BY THE 3RD RESPONDENT REQUESTING REGISTER ALONG WITH EXHIBIT P1 AGREEMENT.**
- P4 - COPY OF THE APPLICATION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S.TO JUDGE

PJ

K. VINOD CHANDRAN, J.

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W.P.(C) No.21427 of 2015 - C

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Dated this the 23rd day of July, 2015

J U D G M E N T

The petitioner is anticipating that the petitioner's power-of-attorney in favour of the 3rd respondent would not be acted upon by the 2nd respondent. The petitioner is said to have been awarded a work by the respondent. To carry on the work, the petitioner had taken a cash credit facility from the 3rd respondent. One of the conditions in the cash credit facility, according to the petitioner, was that the petitioner should execute a power-of-attorney in favour of the 3rd respondent enabling the 3rd respondent to collect the amounts paid by the 2nd respondent in lieu of the work carried on by the petitioner.

2. The petitioner had given a letter for accepting the said power-of-attorney before the 2nd respondent. There is no

procedure by which the 2nd respondent could agree to pay money to a third party. The loan facility though availed of by the petitioner to carry out the work, there is no such condition in the agreement executed by the awardee and the awarder. The 2nd respondent is a stranger insofar as the loan transaction is concerned and has no privity of contract with the Bank. There can be no mandamus issued directing the 2nd respondent to accept a power-of attorney even before the amounts as per the contract has fallen due. The effect of a valid power-of-attorney executed would have to be considered when the same is sought to be acted upon and no anticipatory relief can be claimed. That question would be left open.

The writ petition would stand dismissed.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

SB

// true copy //

P.A to Judge.