

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

WP(C).No. 26274 of 2009 (D)

PETITIONER(S) :

THOMAS M.K. ,
S/O.KUNJE PAILAN, AGED 57 YEARS,
MADAPPILLY HOUSE, PALAYAMPARAMBU (PO) ,
KALOOR VADAKKUMMURI VILLAGE, MUKUNDAPURAM TALUK,
THRISSUR DISTRICT.

BY ADV. SMT.K.V.BHADRA KUMARI.

RESPONDENT(S) :

1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO LOCAL SELF GOVERNMENT DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.
2. DISTRICT COLLECTOR,
THRISSUR.
3. SECRETARY,
KADUKUTTY GRAMA PANCHAYATH,
KADUKUTTY (PO) , CHALAKUDY (VIA) , THRISSUR DT.
4. KADUKUTTY GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY, KADUKUTTY (PO) ,
CHALAKUDY (VIA) , THRISSUR (DT) .
5. DEPUTY TAHSILDAR,
REVENUE RECOVERY, MUKUNDAPURAM.
6. VILLAGE OFFICER,
KALLUR VADAKKUMMURI VILLAGE, MUKUNDAPURAM TALUK,
THRISSUR.

R3 & 4 BY ADV. SRI.SHEEJO CHACKO
R3 & 4 BY ADV. SRIA.G.UNNIKRISHNAN
R3 & 4 BY ADV. SRI.DEVAN K.MENON
R3 & 4 BY ADV. SRI.VIJITH SUDHAKARAN
BY GOVERNMENT PLEADER SMT. M.T.SHEEBA.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXHIBIT P1: TRUE COPY OF THE MINUTES OF THE MEETING HELD ON 27/10/2006.
- EXHIBIT P2:- TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER AND P.A. UNNI BEFORE THE SECRETARY, KADUKUTTY GRAMA PANCHAYATH ON 13/03/2007.
- EXHIBIT P3:- TRUE COPY OF THE STATEMENT OF ACCOUNTS OF THE PETITIONER TILL 07/03/2007.
- EXHIBIT P4:- TRUE COPY OF COMMUNICATION DATED 26/05/2007 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.
- EXHIBIT P5:- TRUE COPY OF THE DECISION OF THE PANCHAYATH COMMITTEE HELD ON 28/04/2007.
- EXHIBIT P6:- TRUE COPY OF THE REVISED ESTIMATE.
- EXHIBIT P7:- TRUE COPY OF THE REPLY DATED 01/06/2007 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.
- EXHIBIT P8:- TRUE COPY OF THE NOTICE DATED 12/06/2007 ISSUED BY THE 3RD RESPONDENT.
- EXHIBIT P9:- TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 5TH RESPONDENT UNDER SECTION 7 OF R.R. ACT.
- EXHIBIT P10:- TRUE COPY OF THE DEMAND NOTICE ISSUED UNDER SECTION 34 OF R.R. ACT.
- EXHIBIT P11:- TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE DISTRICT COLLECTOR DATED 09/09/2009
- EXHIBIT P10:- TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WPC NO 15104/2011 DTD 27/6/2011.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A. MUHAMED MUSTAQUE, J.

W.P(C). No. 26274 of 2009

Dated this the 14th day of July, 2015

J U D G M E N T

The petitioner was the Convenor of the beneficiary committee of Palayanthodu-Sambaloor Road Drainage Construction Project. Being a Convenor, petitioner was given mobilization advance of Rs.25,000/-. Petitioner acknowledged the same on 13.12.2006.

2. Learned counsel for the petitioner submits that, petitioner has undertaken the construction work as per the proceedings of the Assistant Engineer, Local Self Government Department. Thereafter, based on the decision of local authority, the estimate was revised. The petitioner expressed unwillingness to continue with the revised estimate, as seen from Ext.P7. The Panchayath thereupon directed the petitioner to return Rs.25,000/- along with 80% interest and to restore the land in original position and threatened the petitioner with revenue recovery proceedings if amount is not repaid.

3. The petitioner was only a Convenor of the implementing committee, he has dispute with the revised estimate. The case of the petitioner is that, he has already expended the amount received towards work. It is also

discernible from the proceedings of the Panchayath that the petitioner has executed the work. In such circumstances, without determining the loss, no liability could not have been fastened on the petitioner. The liability either should be referable under the agreement or under the relevant regulations. Nothing has been produced before this Court to show that how the liability could be passed on the petitioner. Further, no estimation has been done with respect to the work done by the petitioner. A loss from the person can be recovered based on the responsibility in relation to the work either based on the regulations or contract.

4. In view of the total absence of materials to pass liability on the petitioner, I am of the view that revenue recovery proceedings initiated against the petitioner are unsustainable.

Accordingly, this writ petition is allowed and the impugned proceedings are set aside.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.