

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 13TH DAY OF AUGUST 2015/22ND SRAVANA, 1937

WP(C).No. 22585 of 2014 (W)

PETITIONER(S):

**A.ASHOKAN,
T.C.43/1233, VADUVATHU,
KAMALESWARAM WARD, MANACAUD P.O., THIRUVANANTHAPURAM.**

**BY ADVS.SRI.V.MADHUSUDHANAN
SRI.S.MANIKANTAN NAIR**

RESPONDENT(S):

- 1. THE CORPORATION OF THIRUVANANTHAPURAM,
REPRESENTED BY ITS SECRETARY,
THIRUVANANTHAPURAM - 695 034**
- 2. THE SECRETARY,
CORPORATION OF THIRUVANANTHAPURAM,
THIRUVANANTHAPURAM - 695 034**
- 3. THE TAHSILDAR (REVENUE RECOVERY),
THIRUVANANTHAPURAM - 695 001.**
- 4. THE DEPUTY TAHSILDAR (REVENUE RECOVERY),
THIRUVANANTHAPURAM - 695 001.**
- 5. THE MUTTATHARA SERVICE CO-OPERATIVE BANK LTD.NO.T 413,
REPRESENTED BY ITS SECRETARY,
MUTTATHARA SERVICE CO-OPERATIVE BANK LTD.NO.T 413,
VALLAKADAVU P.O., THIRUVANANTHAPURAM - 695 008**
- 6. THE SECRETARY,
MUTTATHARA SERVICE CO-OPERATIVE BANK LTD.NO.T 413,
VALLAKADAVU P.O., THIRUVANANTHAPURAM - 695 008.**
- 7. THE DISTRICT COLLECTOR,
THIRUVANANTHAPURAM - 695 001.**

**R1 & R2 BY ADVS. SRI.N.NANDAKUMARA MENON (SR.)
SRI.P.K.MANOJKUMAR, SC**

**R3, R4 & R7 BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN
R5 & R6 BY ADV. SRI.SUMAN CHAKRAVARTHY**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
13-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 - TRUE COPY OF THE AGREEMENT DATED 16-2-1999.

EXT.P2 - TRUE COPY OF THE AGREEMENT EXECUTED BETWEEN PETITIONER AND THE 2ND RESPONDENT.

EXT.P3 - TRUE COPY OF THE DEMAND NOTICE DATED 11-7-2013 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.

EXT.P4 - TRUE COPY OF THE OBJECTION DATED 14-11-2003 FILED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.

EXT.P5 - TRUE COPY OF THE REPRESENTATION DATED 27-11-2003 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P6- TRUE COPY OF THE LETTER NO.M.5-5700/03 DATED 8-11-2013 OF THE 3RD RESPONDENT TO THE 6TH RESPONDENT.

EXT.P6(A) - TRUE COPY OF THE PROHIBITORY ORDER NO.M.5-5700/03 DATED 8-11-2003 ISSUED BY THE 3RD RESPONDENT ALONG WITH EXT.P6.

EXT.P7 - TRUE COPY OF THE REPLY DATED 17-12-2013 OF THE APPELLATE AUTHORITY TO THE PETITIONER.

EXT.P8 - TRUE COPY OF THE DECISION OF THE COUNCIL MEETING OF THE THIRUVANANTHAPURAM CORPORATION HELD ON 19-12-2013.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msv/

A. MUHAMED MUSTAQUE, J

W.P.(C).No. 22585 of 2014

Dated this the 13th day of August, 2015

JUDGMENT

The petitioner was the convener of a Beneficiaries' Committee for the reformation of Vaduvath (SC & ST) Slum Scheme implemented through Corporation of Trivandrum-1st respondent. Exts. P1 and P2 are the agreement. By Exts.P1 and P2 agreement, the petitioner claimed that he has undertaken the work and expended the amount received from the Corporation. According to the petitioner, he is entitled to get more than Rs.2,90,000/- from the Corporation on account of implementation of the project.

2. The petitioner challenges in the writ petition, revenue recovery proceedings initiated as per Exts.P3,P6 and P6(a).

3. Apparently, there is no determination of the liability on the part of the petitioner by any of the authority.

4. In the counter affidavit, nothing has been stated about the liability of the petitioner and on what basis, the liability has been determined.

5. The petitioner relies on Ext.P8 proceedings of the council of the 1st respondent Corporation. It is referred in that there are liabilities to the petitioner and it is on account of the latches on the part of the officials, the amount has not been disbursed to the petitioner. It is also noted that it is not conducive to proceed against the petitioner.

6. As a matter stands now, it is not discernible how the liability has been determined on the petitioner. The liability can be fastened on the petitioner either referable under contract or by proving loss caused by the petitioner. In the absence of any determination of the liability in accordance with law or contract, no revenue recovery proceedings can be proceeded. Taking note of overall facts and circumstances, this Court is of the view that the revenue recovery proceedings initiated is without determining the liability and therefore illegal and unsustainable. Accordingly, Exts.P3, P6 and P6(a) are set aside.

The writ petition is disposed of as above.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE