

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 27TH DAY OF JULY 2015/5TH SRAVANA, 1937

WP(C).No. 22494 of 2015 (J)

PETITIONER(S):

**T.A. XAVIER, S/O.AUGUSTINE, AGED 67 YEARS, CONTRACTOR,
M/S.T.A. XAVIER & SONS, THAREPARAMBIL HOUSE,
PALLURUTHY P.O, KOCHI -682 006.**

**BY ADVS.SRI.BABU JOSEPH KURUVATHAZHA,
SRI.P.TABHILASH.**

RESPONDENT(S):

- 1. OTTAPPALAM MUNICIPALITY,
OTTAPPALAM P.O, PALAKKAD DISTRICT, PIN- 679 101,
REPRESENTED BY ITS SECRETARY.**
- 2. OTTAPPALAM MUNICIPAL COUNCIL,
OFFICE OF THE OTTAPPALAM MUNICIPALITY,
OTTAPPALAM P.O., PALAKKAD DISTRICT, PIN- 679 101,
REPRESENTED BY ITS CHAIRPERSON.**
- 3. THE MUNICIPAL ENGINEER,
OTTAPPALAM MUNICIPALITY, OTTAPPALAM P.O.,
PALAKKAD DISTRICT , PIN -679 101.**
- 4. KERALA URBAN AND RURAL DEVELOPMENT
FINANCE CORPORATION (KURDFC), TRANS TOWERS,
VAZHUTHACAUD, THIRUVANANTHAPURAM- 695 014,
REPRESENTED BY ITS MANAGING DIRECTOR.**

R1 TO R3 BY ADV. SRI.P.P.THAJUDHEEN, SC.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 27-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT P1** COPY OF THE RELEVANT PAGES OF THE TENDER DOCUMENT PUBLISHED BY THE 1ST RESPONDENT.
- EXHIBIT P2** COPY OF THE UNDERTAKING /CONSENT ISSUED BY THE PETITIONER TO THE 1ST RESPONDENT, IN PURSUANT TO THE DECISION NO.2.24 DATED 22/02/2012 OF THE CO-ORDINATION COMMITTEE OF THE 1ST RESPONDENT MUNICIPALITY.
- EXHIBIT P3** COPY OF THE AGREEMENT DATED 05/03/2012 EXECUTED BETWEEN THE PETITIONER AND THE 1ST RESPONDENT.
- EXHIBIT P4** COPY OF THE RELEVANT PAGES OF FORM-IV ATTACHED TO EXHIBIT P3 AGREEMENT.
- EXHIBIT P4(A)** COPY OF THE PROCEEDING OF THE 2ND RESPONDENT PERTAINING TO THE DECISIONS OF THE MEETING DATED 10/03/2012.
- EXHIBIT P5** COPY OF THE DECISION DATED 29/10/2014 OF THE 1ST RESPONDENT MUNICIPALITY.
- EXHIBIT P6** COPY OF THE DECISION DATED 29/10/2014 OF THE 1ST RESPONDENT MUNICIPALITY.
- EXHIBIT P7** COPY OF THE UNDERTAKING GIVEN BY THE PETITIONER, AGREEING TO EXECUTE THE ENTIRE EXTRA WORKS, AT THE 2012 SCHEDULE OF RATES.
- EXHIBIT P8** COPY OF THE BILL PREPARED BY THE 3RD RESPONDENT FOR RS.2,25,44,622/-.
- EXHIBIT P9** COPY OF THE DATED 14/05/2015 OF THE 1ST RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 22494 of 2015

Dated this the 27th day of July, 2015

J U D G M E N T

Aggrieved by the inaction on the part of the office of the 1st respondent in forwarding Ext.P8 bill to the office of the 4th respondent, the petitioner has come up before this Court.

2. On executing Ext.P3 agreement, the petitioner was awarded with the contract work for the construction of bus stand cum shopping complex of Ottappalam Municipality. The petitioner alleges that, so far, he executed the work worth ₹16.25 crores whereas only an amount of ₹12.60 crores is paid to the petitioner. As per Ext.P8 bill prepared by the 3rd respondent, the petitioner is entitled for ₹2.25 crores. The work already executed by the petitioner, which is yet to be measured, would come to 1.40 crores; it is alleged. According to the petitioner, the work covered by Ext.P3 agreement is fully funded by

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the 4th respondent; and the 4th respondent gives approval for payment of bills only after getting the bill forwarded by the 1st respondent. He alleges that Ext.P8 bill was prepared by the 3rd respondent as early as in April 2015, and it has been categorically stated by the 1st respondent in Ext.P9 that he had forwarded Ext.P8 for the approval of the 4th respondent and Ext.P8 bill was enclosed along with Ext.P9. According to the petitioner, Ext.P8 bill has not been sent to the office of the 4th respondent by the 1st respondent so far. Hence, this writ petition.

3. When the matter was taken up for hearing, the learned counsel for the petitioner confined his argument to the limited prayer for a direction to the 1st respondent to forward Ext.P8 to the office of the 4th respondent.

4. Considering the nature of the relief and the nature of the submission, this Court is of the view that the writ petition can be disposed of even without issuing notice to the respondents.

Therefore, the writ petition is disposed of directing

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the 1st respondent to forward Ext.P8 appeal to the office of the 4th respondent within a period of one week from the date of receipt of a copy of this judgment.

To facilitate an early action, the petitioner shall be at liberty to produce a copy of this judgment as well as a copy of this writ petition before the 1st respondent at the earliest for follow-up action.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-