

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

FRIDAY, THE 18TH DAY OF DECEMBER 2015/27TH AGRAHAYANA, 1937

WP(C).No. 26955 of 2011 (T)

PETITIONER:

N.A.JOSEPH
NELLAMTHADOM, KOOVAPPALLY.P.O, KANJIRAPALLY
KOTTAYAM DISTRICT.

BY ADVS.SRI.SHABU SREEDHARAN
SRI.C.K.PRASAD
SRI.T.S.ANURAJ
SRI.B.BALA PRASANNAN

RESPONDENTS:

THE EXECUTIVE ENGINEER
OFFICE OF THE EXECUTIVE ENGINEER
MINOR IRRIGATION DIVISION, KOTTAYAM.

BY SENIOR GOVERNMENT PLEADER SRI.K.C. VINCENT

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
18.12.2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

- P1 : TRUE COPY OF THE SELECTION NOTICE ALONG WITH THE ACCEPTED SCHEDULE ISSUED BY THE RESPONDENT TO THE PETITIONER DATED 26.7.1996.
- P2 : TRUE COPY OF THE ACKNOWLEDGEMENT FORM OF THE HANDING OVER OF THE SITE TO THE CONTRACTOR DATED 25.09.1996.
- P3 : TRUE COPY OF THE REPRESENTATION DATED 10.01.2011 BEFORE THE RESPONDENT.
- P4 : TRUE COPY OF THE LETTER NO.E4-327/2011 DATED 11.02.2011.
- P5 : TRUE COPY OF THE FURNISHING LETTER PRODUCED BY THE PETITIONER DATED 22.3.2011.

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

P.A TO JUDGE

smv

SHAJI P. CHALY, J.

W.P.(C). No.26955 of 2011

Dated this the 18th day of December, 2015

JUDGMENT

This Writ Petition is filed by the petitioner seeking direction to the respondent to effect payment of the contract work done by the petitioner pursuant to Exts.P1 and P2 dated 26.7.1996 and 25.09.1996.

2. Brief facts for the disposal of the Writ Petition are that the petitioner was assigned by the respondent for the work of FD/NC - protecting the sides of Valiyathodu in Vazhoor Panchayat lying in Survey Nos.217/1 - 244/1 pursuant to the tender notification dated 12.4.1994 evident from Ext.P1. The acknowledgment form of the handing over of the site to the contractor dated 25.09.1996 is Ext.P2. According to the petitioner, petitioner has furnished security in favour of the respondent and the work undertaken was completed as per the terms of the contract and also to the full satisfaction of the respondent. However, the payment for the work has not yet been effected in spite of the lapse of 14 years. It is also the submission of the petitioner that he is a person aged 78 years

and in spite of his earnest efforts, the respondent has not paid the amount due to the petitioner. Petitioner has submitted Ext.P4 before the respondent seeking his indulgence and requesting for payment. But in spite of the same also, no payment was effected to him.

3. Heard learned counsel for the petitioner and learned Government Pleader.

4. Learned Government Pleader submits that the petitioner in spite of the award of the work has not carried out the work. Therefore, the petitioner is not entitled to get any payment on account of Exts.P1 and P2. The said submission made by the learned Government Pleader is refuted by the learned counsel for the petitioner and has pointed out that he has got every evidence to substantiate his claim before the respondent.

In that view of the matter, there will be a direction to the respondent to consider the claim of the petitioner as pointed out by him as per Ext.P4 representation and take a decision in accordance with law within a period of two months from the date of receipt of a copy of this judgment.

Since the matter is pending for long time, it is only appropriate that the petitioner is directed to produce a copy of

this Writ Petition along with the documents appended to it and counter affidavit filed by the Government before the respondent.

Writ Petition is disposed of accordingly.

Sd/-
SHAJI P. CHALY
JUDGE

//true copy//

P.A. To Judge

smv
18.12.2015