

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. 29912 of 2014 (L)

PETITIONER:

**SIMON, AGED 41 YEARS, SON OF LONA,
RESIDING AT CHERUVATHUR, VYTHIRI,
WYNADU DISTRICT.**

BY ADV. SRI.JACOB ABRAHAM

RESPONDENTS:

- 1. DISTRICT COLLECTOR, WYNADU
KALPETA NORTH, WYNADU- 673 122.**
- 2. DISTRICT RURAL DEVELOPMENT AGENCY,
KALPETTA NORTH, WYNADU- 673 122.**
- 3. VYTHIRI GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY, VYTHIRI
WYANADU- 673 121.**
- 4. DEPUTY TAHSILDAR (R.R)
VYTHIRI, WAYANADU- 673 121.**
- 5. TAHSILDAR (R.R),
VYTHIRI, WAYANADU- 673 121.**

**R1, R 4 & R5 BY GOVERNMENT PLEADER SMT.M.T.SHEEBA
R3 BY SRI.C.RASHEED , S.C.**

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

APPENDIX

PETITIONER'S EXHIBITS :-

- P1 - TRUE COPY OF THE SECOND RESPONDENT'S ORDER NO. B1.343/05
DT. 30.3.05.
- P2 - TRUE COPY OF THE VYTHIRI GRAMA PANCHAYATH'S LETTER BEARING
NUMBER A3 223/05 DT. 06/5/05 ISSUED TO THE PETITIONER.
- P3 - TRUE CPY OF THE 4TH RESPONDENT'S DEMAND DT. 05.2.14 TO THE
PETITIONER IN FORM 1 OF THE KEALA REVENUE RECOVERY ACT.
- P4 - TRUE COPY OF THE 4TH RESPONDENT'S DEMAND DT. 05.2.14 TO THE
PETITIONER IN FORM 10 OF THE KEALA REVENUE RECOVERY ACT.
- P5 - TRUE COPY OF THE PETITIONER'S LETTER TO THE 1ST RESPONDENT
DT. 05.7.14.
- P6 - TRUE COPY OF THE PETITIONER'S LETTER TO THE 4TH RESPONDENT
DT. 05.7.14.
- P7 - TRUE COPY OF THE 5TH RESPONDENT'S LETTER BEARING
NO. D2- 166/13/14 /PANCHAYATH/OM DT. 26.8.14.

RESPONDENTS' EXHIBITS:- NIL

//TRUE COPY//

P.A.TO JUDGE

A. MUHAMED MUSTAQUE, J.

W.P(C). No. 29912 of 2014

Dated this the 14th day of July, 2015

J U D G M E N T

Petitioner was a Convenor for impelmention of National food for Work program within the Vythiri Grama Panchayath. Petitioner was advanced with ₹50,000/-. Petitioner submits that, he has purchased materials and prepared ground works and other works relating to the Check Dams.

2. Thereafter the petitioner received Ext.P2 from the Local Grama Panchayth stating that Collector has directed to stop the activities based on the agreement. This was followed by revenue recovery notice. Petitioner gave a reply stating that, he has already spent the money towards the work and he cannot repay the amount. The petitioner has approached this Court challenging revenue recovery proceedings.

3. The petitioner relies on Ext.P1 the proceedings of the Project Officer, DRDA, Wayanad wherein it is mentioned as follows:

“As per the reference 2nd cited above the Secretary Vythiri Grama Panchayath, the Implementing Officer has reported that the

beneficiary committee convenor of the above work has executed necessary agreement, and started the work, and requested for advance.”

That above would show that, petitioner has spent money for the work.

4. Petitioner's case is that, he has no liability to pay any amount to the State as he did not cause any loss to the State.

5. In this matter, a counter affidavit has been filed by the 2nd respondent stating that, after disbursal of the advance amount, Government issued a direction to stop the work on the ground that certain complaints were received from various quarters alleging illegal implementation of the project. Ultimately, the Government appears to have decided to cancel the administrative sanction given to the scheme in the District. It is accordingly, a decision has been taken to recover the amount from the petitioner.

6. The liability of the petitioner necessarily rest upon any responsibility either under the agreement or under law. Even as per the agreement and law, the responsibility will be depend upon the loss caused by the petitioner. The Government has taken a decision to implement the project. The Government has also

taken a decision to cancel the project. The Government has no case that, the petitioner misappropriated the amount advanced for the project. Merely because the Government has taken a decision to cancel the project does not entail recovery of the amount from the petitioner. It is to be noted that, the petitioner is only a Convenor of the project, the work is being executed on behalf of the Government for the benefit of the local people. The petitioner has no personal benefit in the project. In such scenario no amount can be recovered unless and otherwise it is determined that a loss has been caused on account of the action attributable to the petitioner. In that view of the matter revenue recovery proceedings are set aside.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.

Pn