

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

WP(C).No. 30583 of 2014 (W)

PETITIONER:

BINU.N.S., AGED 39 YEARS,
S/O.SANKARAN, PROPRIETOR,
FRIENDS OFFSET PRESS, CHERUTHONY P.O.,
IDUKKI DISTRICT, RESIDING AT 'NELLIKUNNEL'
VIMALAGIRI P.O, IDUKKI DISTRICT - 685 602.

BY ADV. SRI.C.K.PAVITHRAN

RESPONDENTS:

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1. THE DISTRICT SUCHITWA MISSION,
REPRESENTED BY DISTRICT CO-ORDINATOR,
DISTRICT SUCHITWA MISSION, JILLA PANCHAYAT BUILDING,
PAINAVU P.O, IDUKKI 685 603
 2. THE DISTRICT COLLECTOR & EXECUTIVE DIRECTOR,
DISTRICT SUCHITWA MISSION, JILLA PANCHAYAT BUILDING,
PAINAVU P.O, IDUKKI 685 603.
 3. SECRETARY, DISTRICT PANCHAYAT OFFICE
JILLA PANCHAYAT BUILDING, PAINAVU P.O, IDUKKI 685 603.
 4. THE DIRECTOR (OPERATIONS),
SUCHITWA MISSION,
LEKSHMI NIVAS,
T.C.24/2054,
PANAVILA JUNCTION,
THYCAD P.O.,
THIRUVANANTHAPURAM - 695 014.
 5. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
LOCAL SELF GOVERNMENT DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.

R1&2 BY ADV. SRI. K.A. SANGEETHA, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
08-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 - TRUE COPY OF THE WORK ORDER DATED 27-7-2012 ALONG WITH COPY OF THE AGREEMENT WITH WORK SCHEDULE.

EXT.P2 - TRUE COPY OF LETTER DATED 3-8-2012 ISSUED BY THE 1ST RESPONDENT.

EXT.P3 - TRUE COPY OF LETTER DATED 22-9-2012 ISSUED BY THE 1ST RESPONDENT.

EXT.P4- TRUE COPY OF THE BILL DATED 7-9-2012.

EXT.P5 - TRUE COPY OF THE BILL DATED 25-10-2012.

EXT.P6 -TRUE COPY OF THE BILL DATED 25-10-2012.

EXT.P7 - TRUE COPY OF THE BILL DATED 22-2-2013.

EXT.P8 - TRUE COPY OF THE PETITION DATED 14-6-2013.

EXT.P9 - TRUE COPY OF THE JUDGMENT IN WPC.26846/2012.

EXT.P10 -TRUE COPY OF THE LETTER NOG.O(RT)474/2014/LSGD DATED 19-2-2014.

EXT.P11 - TRUE COPY OF THE PROCEEDINGS NO.105/2012/IEC/TSC DATED 25-4-2014.

EXT.P12 - TRUE COPY OF THE NOTICE DATED 9-52014.

EXT.P13 - TRUE COPY OF THE REPORT DATED 5-8-2014.

EXT.P13(a)- TRUE COPY OF THE REPORT DATED 06.08.2014.

EXT.P13 (b)- TRUE COPY OF THE REPORT DATED 06.08.2014.

EXT.P13 (c)- TRUE COPY OF THE REPORT DATED 05.08.2014.

EXT.P13 (d)- TRUE COPY OF THE REPORT DATED 06.08.2014.

EXT.P13 (e)- TRUE COPY OF THE REPORT DATED 07.08.2014.

EXT.P13 (f)- TRUE COPY OF THE REPORT DATED 07.08.2014.

EXT.P13 (g)- TRUE COPY OF THE REPORT DATED 05.08.2014.

EXT.P13 (h)- TRUE COPY OF THE REPORT DATED 05.082014.

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EXT.P14 - TRUE COPY OF THE NOTICE DATED 16-8-2014.

EXT.P15 - TRUE COPY OF THE PETITION DATED 1-11-2014

RESPONDENTS' EXHIBITS :

EXHIBIT R1(a): TRUE COPY OF THE MINUTES OF THE MEETING OF COMMITTEE
DATED 27.10.2014.

EXHIBIT R1(b): TRUE COPY OF THE MINUTES OF THE MEETING OF COMMITTEE
DATED 23.12.2014.

/True Copy/

P.A to Judge.

rv

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 30583 of 2014 (W)

Dated this the 8th day of April, 2015.

JUDGMENT

Heard the learned counsel for the petitioner and the learned Government Pleader, apart from perusing the record.

2. Briefly stated, the petitioner is said to have been awarded a civil work of erecting sanitation boards under Suchitwa Mission, Idukki, the estimated cost of the work being ₹ 31,45,159. Though, as per agreement, the petitioner was required to erect 650 boards in 53 Grama Panchayaths of the District, he could complete only 210 boards, whereafter he submitted bills for realisation. In the meanwhile, the first respondent is said to have issued a stop memo dated 22.09.2012 alleging procedural lapses in inviting the tenders. Having failed to realise the amounts for the part of work done by the petitioner, he has approached this Court.

3. The learned counsel for the petitioner has submitted that the petitioner could not complete the balance work only owing to subsequent developments which are not at his behest. According to him, the second respondent has already quantified the amount to

be paid to the petitioner for the work done by him and forwarded the same to the 5th respondent. The learned counsel for the petitioner has also submitted that owing to the delay in the payment of the amounts, the petitioner has already been suffering recovery proceedings by the Federal Bank under SARFAESI Act. He seeks a direction to the 5th respondent to consider the proposal of the second respondent and pay the amounts to the petitioner expeditiously, leaving it open for the petitioner to agitate the issue concerning the balance amount which is in dispute.

4. The learned Government Pleader, on her part, has submitted that the 5th respondent will take every step to expedite the process and take an appropriate decision on the proposals sent by the second respondent. She has also submitted that there is any amount of controversy with regard to the part of work the petitioner has failed to do.

5. In the facts and circumstances, this Court does not intend to go into the disputed questions of fact. At any rate, it is an admitted fact that the second respondent has already quantified the amount to be paid to the petitioner for the work that has so far been done by

him and forwarded the same to the 5th respondent. It is in the interest of justice that the 5th respondent considers the proposal forwarded by the petitioner and pay the admitted amounts to the petitioner at the earliest.

Having regard to the respective submissions of the learned counsel for the petitioner and the learned Government Pleader, this Court disposes of the writ petition with a direction to the 5th respondent consider the proposal said to have been sent by the second respondent and pass appropriate orders thereon, as expeditiously as possible, at any rate within one month from the date of receipt of a copy of this judgment. It is further made clear that concerning the contractual dispute regarding the balance work, it is left open for both the parties to agitate their rights before an appropriate forum, if they desire so.

sd/- DAMA SESHADRI NAIDU, JUDGE.

