

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

MONDAY, THE 26TH DAY OF OCTOBER 2015/4TH KARTHIKA, 1937

WP(C) .No. 32291 of 2015 (J)

PETITIONER(S) :

S.VIJAYA KUMAR, AGED 56 YEARS,
NAKKALATHU HOUSE, KALADY, KARAMANA P.O.
THIRUVANANTHAHPRUAM.

BY ADVS.SRI.R.SUNIL KUMAR
SMT.A.SALINI LAL

RESPONDENT(S) :

1. TRAVANCORE DEVASWOM BOARD
REPRESENTED BY ITS SECRETARY, NANTHANCODE
THIRUVANANTHAPURAM-695 001.
2. TRAVANCORE DEVASWOM BOARD
REPRESENTED BY ITS EXECUTIVE OFFICER
SABARIMALA DEVASOM, NANTHANCODE
THIRUVANANTHAPURAM-695 001.

BY SRI.V.KRISHNA MENON, SC, TRAVANCORE DEVASWOM BOARD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 26-10-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

WP(C) .No. 32291 of 2015 (J)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1.COPY OF THE AGREEMENT DATED 10/11/2011

EXT.P2.COPY OF THE RECEIPT

EXT.P3.COPY OF THE ORDER IN WPC NO.31359/2011

EXT.4.COPY OF THE ORDER IN IA NO.2833/2011 IN SSCR NO.4/2011.

EXT.P5.COPY OF THE RELEVANT PAGES OF THE PROCEEDINGS AS ROC
NO.6223/11/SAB.

EXT.P6.COPY OF THE ORDER AS ROC NO.9271/11/SAB DATED
17/4/2012.

EXT.P7.COPY OF THE ADVERTISEMENT PUBLISHED IN MATHRUBHUMI
DAILY.

EXT.P8.COPY OF THE COMPLAINT

EXT.P9.COPY OF THE LAYERS NOTICE

EXT.P10.COPY OF THE NOTICE.

RESPONDENT(S) ' EXHIBITS

NIL

//TRUE COPY//

PA TO JUDGE.

jg-9/11

THOTTATHIL B.RADHAKRISHNAN &
ANU SIVARAMAN, JJ.

.....
WP(C) No.32291 of 2015
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Dated this the 26th day of October, 2015.

J U D G M E N T

Thottathil B.Radhakrishnan, J.

- 1.We have heard the learned counsel for the petitioner and the learned standing counsel for the Travancore Devaswom Board.
- 2.In the year 2011, certain issues arose as to whether toll could be collected from vehicles moving to the parking lots of Hill Top, Triveni, Chakkupalam I and Chakkupalam II in connection with Sabarimala festival. The process of collecting toll was deprecated and the collection was stopped through orders of this Court. Thereafter, through Ext.P4 order dated 13.12.2011, the Division Bench had directed the TDB to consider the issue to make appropriate refund. The Board authorities were required to carry out discussions with the petitioner. Thereafter, on 17.12.2011, the Board drew up its proceedings, which were followed by the remarks of the Devaswom Chief Engineer (General) on

30.01.2012. That led to Ext.P5 Board proceedings dated 10.02.2012 holding that the Board need to appropriate only ₹19,78,100/- out of the amount of ₹95,50,000/- deposited by the petitioner. The petitioner received that amount following the proceedings of the Devaswom Commissioner dated 17.04.2012 authorising release of such amounts. Long thereafter, Ext.P9 advocate notice was issued on behalf of the petitioner claiming that he is entitled to damages. That was replied by the Board through its advocate through Ext.P10 stating that the amount released by the Board was collected and accepted by the petitioner as full and final settlement of the dispute and any further claim is also barred by limitation. Faced with that situation, this writ petition is filed on 21.10.2015 seeking to quash Ext.P5 proceedings of the TDB dated 10.02.2012 and for consequential reliefs. The claim made is not one which could be adjudicated in writ jurisdiction under Article 226 of the Constitution of India because it is preliminary a claim for damages. Even if it is an amount which could have been claimed

as part of any contract, the situation in hand is not one of a statutory contract or such other contracts, where the High Court would exercise jurisdiction under Article 226 of the Constitution of India. We also see that the petitioner had received the amount following TDB's proceedings of 2012 and it was too late for him, after 3½ years, to have raked up that issue by addressing an advocate notice to the Board demanding damages. To crown all these is the fact that, at this distance of time, the dispute cannot be adjudicated and deserves to be rejected at the threshold, by this Court on the ground of delay and laches as well.

In the result, this writ petition is dismissed.

(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

(ANU SIVARAMAN, JUDGE)