

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 21ST DAY OF DECEMBER 2015/30TH AGRAHAYANA, 1937

WP(C).No. 37882 of 2015 (I)

PETITIONER :

**M/S. CHERIAN VARKEY CONSTRUCTION COMPANY (PVT) LTD.,
5TH FLOOR, ALPHA PLAZA, K.P.VALLON ROAD,
KADAVANTHRA, KOCHI, PIN-682 020
REPRESENTED BY ITS DIRECTOR,
GEROGE VARKEY, AGED 55 YEARS.**

**BY ADVS.SRI.SATHISH NINAN
SRI.SANTHOSH MATHEW
SRI.ARUN THOMAS
SRI.JENNIS STEPHEN
SRI.ALPHIN ANTONY
SRI.VIJAY V. PAUL**

RESPONDENTS :

- 1. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
PUBLIC WORKS DEPARTMENT, SECRETARIAT
THIRUVANANTHPUARAM, PIN-695 001.**
- 2. THE CHIEF ENGINEER (ROADS AND BRIDGES)
THIRUVANANTHPUARAM, PIN-695 001.**
- 3. THE SUPERINTENDING ENGINEER
PUBLIC WORKS DEPARTMENT,
ROADS AND BRIDGES (SOUTH) CIRCLE
THIRUVANANTHPUARAM - 695001**
- 4. THE EXECUTIVE ENGINEER
PUBLIC WORKS DEPARTMENT,
ROADS DIVISION, KOLLAM - 689101**

BY GOVERNMENT PLEADER SRI. M.R. ARUN KUMAR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 21-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF THE REQUEST DATED 19/1/2011 MADE BY THE PETITIONER RELATING TO THE WORK UNDER DIFFERENCE HEADS.
- EXT.P2: TRUE COPY OF THE REPORT DATED 19/4/2011 SUBMITTED BY THE 2ND RESPONDENT TO THE 1ST RESPONDENT.
- EXT.P3: TRUE COPY OF THE GOVERNMENT ORDER G.O.(RT) NO.810/2012 PWD DTED 9/5/2012.
- EXT.P4: TRUE COPY OF THE PLAINT IN OS NO.123/2013 ON THE FILES OF THE SUB COURT, KARUNAGAPPALLY.
- EXT.P5: TRUE COPY OF THE MINUTES OF THE MEETING HELD ON 2/6/2015 IN THE CHAMBER OF SECRETARY TO GOVERNMENT, PUBLIC WORKS DEPARTMENT.
- EXT.P6: TRUE COPY OF THE COMMUNICATION DATED 9/8/2015 RECEIVED BY THE PETITIONER FROM THE RESPONDENTS

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.Muhamed Mustaque, J.

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W.P.(C) No.37882 of 2015

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Dated this the 21st day of December, 2015.

JUDGMENT

1. Petitioner has filed a suit O.S.No.123 of 2013 on the file of the Sub Court, Karunagappally raising certain claims from the respondents.
2. Petitioner approached this court for release of the admitted amount covered by Ext.P3 and for sanctioning of the final bill.
3. It appears that, on account of the pendency of the suit, the respondents refused to release the amount as per Ext.P3.
4. This court is of the view that, without prejudice to the contentions of either parties in the suit, the admitted amount covered by Ext.P3

shall be released to the petitioner. However, this shall be done within a period of one month. Thereafter, the petitioner shall file a memo before the civil court to the satisfaction of his claim covered by Ext.P3. If there is delay in payment, it is open to the petitioner to approach the civil court to claim interest for the delayed payment.

Writ petition is disposed of as above.

Muhamed Mustaque, Judge.

sl.