

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 132 OF 2016

M/s Vales Traders,
A proprietorship concern through
its proprietor Mr. Cirilo Vales,
major of age,
House No.78, Duncolim,
Seraulim, Salcete Goa.

.... Petitioner

V e r s u s

Cuncolim Municipal Council
Through its Chief Officer,
Cuncolim Salcete Goa.

.... Respondent

Mr. Vivek Angelo Rodrigues, Advocate for the petitioner.

Mr. Sandesh D. Padiyar, Advocate for the respondent.

**Coram:- F. M. REIS &
K. L. WADANE, JJ.**

Date:- 16th March, 2016

ORAL JUDGMENT (Per F. M. Reis, J)

Heard Mr. V. Rodrigues, learned counsel appearing for the petitioner and Mr. S. D. Padiyar, learned counsel appearing for the respondent.

2. Rule. Heard forthwith with the consent of the learned counsel.

3. The learned counsel appearing for the respondent waives service.

4. Upon hearing the learned counsel appearing for the petitioner and the respondent, it is not disputed that in terms of the contract the petitioner are entitled to receive a sum of Rs.7,75,303/- under the 2nd running account.

5. Mr. Padiyar, learned counsel appearing for the respondent also does not dispute that pursuant to the order passed by the Director of Municipal Administration/Urban Development dated 17.07.2014, the respondent examined the bills of the petitioner and a resolution was passed by the Municipality dated 09.02.2015 to effect the payment to the petitioner of the amount referred to as per the schedule which is not disputed to be a sum of Rs.7,75,303/-. On the basis of the said resolution of the Municipality, an order came to be passed by the Chief Officer of the respondent directing the payment of the said amount to the petitioner. The said order inter-alia observes as follows :

" The Junior Engineer of this council is hereby directed to record the M.B. as per the letter cited above of electricity Department, Cuncolim and

duly certified by the then Municipal Engineer.

Regarding the extra items carried out by the Contractor the matter be referred to D.M.A. as per the resolution dated 9th February, 2015 for necessary approval and sanction of grants.

The Accounts Department to verify and release the Bill as per the M.B. Recorded."

6. It is contended by the petitioner that despite of the reminders no payments were forth coming and as such the petitioner was forced to file the above petition.

7. Mr. Padiyar, learned counsel appearing for the respondent has also pointed out that before making such payment, the petitioner has to formally seek an extension of the contract which the respondent shall examine within two weeks thereafter.

8. Considering that there is no dispute with regard to the payment of the said amount of Rs. 7,75,303/- raised by the respondent, we find that there is no reason to further delay the payment of such amount to the petitioner.

9. In view of the above, we find it appropriate to dispose of the above petition by directing the respondent to pay the said amount of Rs. 7,75,303/- after effecting necessary deductions, if any, within five weeks from the date of the receipt of the order in accordance with law.

10. Rule stands disposed of in the above terms.

K. L. WADANE, J.

F. M. REIS, J.

at*