

**HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN**

**Writ Petition No.13152 of 2011**

**ORDER:**

The relief sought for in this Writ Petition is for a mandamus to declare the action of the respondents, in not paying the hire charges due to the petitioner for the agreed KMs for two buses, as illegal, unjust, arbitrary and contrary to the agreement; and, consequently, to direct the respondents to pay hire charges of Rs.1,87,456/- with interest @ 24% p.a from 18.08.2006 onwards.

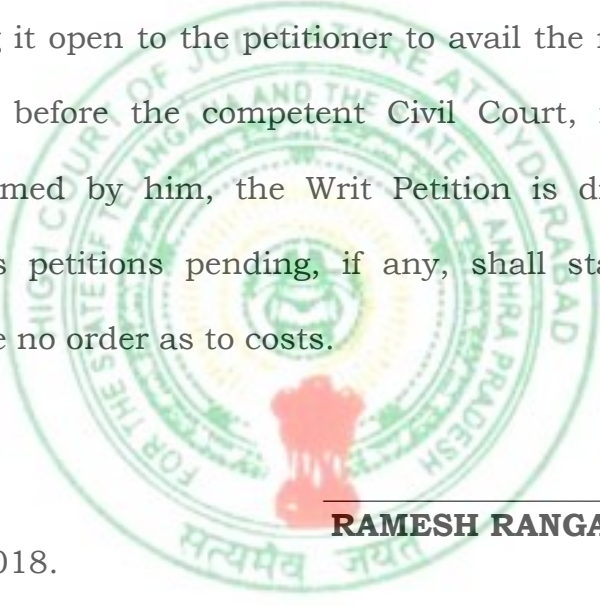
While admitting the Writ Petition, by order dated 17.08.2011, this Court passed an interim order directing the respondents to consider the petitioner's representation dated 07.01.2010, and pass appropriate orders in accordance with law within a period of two weeks from the date of receipt of the said order.

In the counter-affidavit filed by the Law Officer, APSRTC, it is stated that the petitioner had submitted a representation dated 04.07.2008 for stoppage of two buses with effect from 04.08.2008; in terms of Clause No.11(iv) of the agreement, the agreement can be terminated by either party by issuing one month's notice; the petitioner, however, stopped the buses from 15.07.2008 itself; the petitioner had filed a Pre-Litigation dispute for payment of hire charges for the K.Ms arrived in the route survey, during February, 2010; the file was re-submitted for audit giving liberty to the petitioner to work out his remedies, in a regular Court of law, subject to procedure; and the Corporation would arrange for payment, after communication of the details submitted by the

committee members duly obtaining sanction of the competent authority for eligible amounts.

The petitioner herein claims payment in terms of an agreement with the respondent. Disputed questions of fact, arising under a non-statutory contract between the parties, would, ordinarily, not be examined in proceedings under Article 226 of the Constitution of India. As these questions can be properly examined in duly constituted Civil proceedings before the competent Civil Court, I see no reason to exercise discretion to entertain this Writ Petition.

Leaving it open to the petitioner to avail the remedy of filing a Civil Suit, before the competent Civil Court, for recovery of amounts claimed by him, the Writ Petition is dismissed. The miscellaneous petitions pending, if any, shall stand dismissed. There shall be no order as to costs.



**RAMESH RANGANATHAN, ACJ.**

Date:02.02.2018.

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