

V.Ummer Haji Vs. the Geologist

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Court : Kerala

Decided On : Dec-19-2013

Judge : Honourable Mr.Justice P.R.Ramachandra Menon

Appellant : V.Ummer Haji

Respondent : The Geologist

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON THURSDAY, THE 19TH DAY OF DECEMBER 2013 28TH AGRAHAYANA, 1935 WP(C).No. 31599 of 2013 (Y) ----- PETITIONER(S): ----- V.UMMER HAJI, AGED 59 YEARS S/O. ASSU, PWD CONTRACTOR, S.BATHERY WAYANAD THROUGH POWER OF ATTORNEY HOLDER T.ASOKAN S/O. KUNHIKANDAN, 58 YEARS, PWD CONTRACTOR PATTARI HOUSE, KUNNAMANGALAM KOZHIKODE DISTRICT-673571. BY ADVS.SRI.K.V.PAVITHRAN SRI.JAYANANDAN MADAYI PUTHIYAVEETIL SRI.P.SAJU SRI.E.M.UNNIKRISHNAN (MANJERI) RESPONDENT(S): ----- 1. THE GEOLOGIST MINING AND GEOLOGY DEPARTMENT, DISTRICT OFFICE MEENANGADI, WAYANAD DISTRICT-673591.

2. EXECUTIVE ENGINEER PWD ROADS DIVISION, KALPETTA, WAYANAD DISTRICT 673591.

3. DISTRICT COLLECTOR WAYANAD, KALPETTA673591 4. DIRECTOR OF MINING AND GEOLOGY THIRUVANANTHAPURAM695001.

5. STATE OF KERALA REP. BY SECRETARY, PUBLIC WORKS DEPARTMENT SECRETARIAT, THIRUVANANTHAPURAM695001. BY SENIOR GOVERNMENT PLEADER SRI. JOSEPH GEORGE THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19-12-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 31599 of 2013 (Y)

----- APPENDIX PETITIONERS' EXHIBITS
----- EXHIBIT P1- TRUE COPY OF AGREEMENT ENTERED INTO FOR CONSTRUCTION OF BRIDGE & APPROACH ROAD. EXHIBIT P2- TRUE COPY OF POWER OF ATTORNEYS AGREEMENT DULY ACCEPTED. EXHIBIT P3- TRUE COPY OF THE APPROVAL OF EARTH WORK QUANTITY. EXHIBIT P4- TRUE COPY OF LETTER OF R2 TO RDO FOR GRANTING PERMISSION TO EXCAVATE EARTH. EXHIBIT P5- TRUE COPY OF

ORDER

OF RDO PERMITTING EXCAVATION OF EARTH. EXHIBIT P6- TRUE COPY OF

ORDER

OF R2 TO RDO TO ALLOW SUFFICIENT TIME. EXHIBIT P7- TRUE COPY OF LETTER OF RDO TO R3 FOR FURTHER ACTION. EXHIBIT P8- TRUE COPY OF LETTER OF R1 TO R2 WITH COPIES OF CHALLAN REMITTING THE AMOUNT. EXHIBIT P9- TRUE COPY OF LETTER OF R2 TO R1 TO ISSUE PERMISSION AND GATE PASS FOR CONVEYANCE. EXHIBIT P10- TRUE COPY OF LETTER DATED 26-11-13 TO R1 FOR ISSUE OF PERMISSION TO EXCAVATE EARTH AND GATE PASS FOR CONVEYING TO SITE. RESPONDENTS' EXHIBITS ----- NIL //True copy// P.A. TO JUDGE Shg/ P.R. RAMACHANDRA MENON, J.

..... W.P.(C)No.31599
OF 2013..... Dated this the 19th
December, 2013

JUDGMENT

The petitioner has approached this Court with the following prayers: "i) issue a writ of mandamus or any other writ order directing the first respondent to issue necessary permit to the petitioner to excavate ordinary earth from the designated site and issue gate pass for its conveyance for the construction of the approach road of the Bridge as covered by Exhibit P1 Agreement. ii) issue directions to the 1st respondent to release the amount remitted by him as per exhibit P8 excavation of ordinary earth for the public purpose is not allowable under any causes. iii) any other order as this Hon'ble Court deem fit under the circumstances of the case." 2. The case of the petitioner is that he was awarded the work of construction of a bridge and approach road covered by Ext.P1 agreement. Though work of the bridge was completed, the work of approach road could not be completed for no fault of him, but because of non-permission to excavate and transport earth from the approved site, by the first respondent/Geologist. Projecting his grievances, the petitioner has filed Ext.P10 W.P.(C)No.31599 OF20132 representation before the first respondent, which is still to be acted upon. The limited prayer pressed before this Court is for issuance of a direction to the first respondent/Geologist to consider and finalise Ext. P10 within a reasonable time 3. Heard the learned Government Pleader as well.

4. Considering the limited nature of relief pressed before this Court, it is not necessary to adjudicate the issue on merits. Accordingly, the writ petition is disposed of, directing the first respondent/Geologist to consider and finalise Ext.P10 representation, at the earliest, at any rate, within one month from the date of receipt of a copy of the judgment, after affording an opportunity of hearing to the petitioner. The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the first respondent for further steps. P.R.RAMACHANDRA MENON JUDGE lk