

P.M.Ummer Vs. the Joint Director, Coastal Engineering Field Studies

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Court : Kerala

Decided On : Oct-29-2014

Judge : Honourable Mr. Justice a.Muhamed Mustaque

Appellant : P.M.Ummer

Respondent : The Joint Director, Coastal Engineering Field Studies

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE A.MUHAMED MUSTAQUE WEDNESDAY, THE 29^H DAY OF OCTOBER 2014 7TH KARTHIKA, 1936 WP(C).No.27400 of 2014 (Y) ----- PETITIONER: -----
P.M.UMMER,PALAMADATHIL HOUSE, KANNAMANGALAM WEST, MALAPPURAM-676 305. BY DR.K.P.SATHEESAN (SENIOR ADVOCATE.) ADVS.SRI.M.R.JAYAPRASAD SRI.P.MOHANDAS (ERNAKULAM) SRI.ANOOP.V.NAIR SRI.S.VIBHEESHANAN SRI.SIDDHARTH KRISHNAN RESPONDENTS: ----- 1. THE JOINT DIRECTOR,COASTAL ENGINEERING FIELD STUDIES, THRISSUR-685 020.

2. THE DEPUTY DIRECTOR,COASTAL ENGINEERING FIELD STUDIES, SUB DIVISION,KOZHIKODE-673 009. BY SENIOR GOVT.PLEADER SRI.K.C.VINCENT. THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29-10-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: pk WP(C).No.27400 of 2014 (Y) -----

APPENDIX PETITIONERS EXHIBITS ----- EXHIBIT
P1:TRUE COPY OF THE AGREEMENT SCHEDULE EXECUTED BY THE
PETITIONER IN FAVOUR OF THE FIRST RESPONDENT. EXHIBIT P2:TRUE
COPY OF THE

ORDER

NO.D1.585/2012 DATED108-2014 IS ISSUED BY THE FIRST RSPONDENT.
EXHIBIT P3:TRUE COPY OF THE

JUDGMENT

DATED2708-2014 IN WPC NO.21151/2014 RESPONDENTS EXHIBITS: NIL
----- //TRUE COPY// P.S.TO JUDGE pk A.MUHAMED
MUSTAQUE, J.

===== W.P.(C)No.27400 of 2014 =====
== Dated this the 29th day of October, 2014

JUDGMENT

The petitioner is a contractor. The petitioner was awarded with the work of planting control point stones, alignment stones, kilometer stones and bench mark stones along the coast under Coastal Erosion Study Section, Thalassery. Ext.P1 is the agreement. Time schedule fixed in the agreement is four months from the date of handing over the site. The site was handed over to the petitioner on 24.4.2012.

2. The petitioner submits that he has conducted a preliminary survey of the coastal belt. Thereafter he completed the survey and collected the building materials. However it is submitted that due to certain reasons beyond his control, the work could not be completed. The petitioner has also a case that the first respondent did not provide space for concrete works and other materials. The petitioner's agreement was terminated by Ext.P2 at the risk and cost of the petitioner. It is challenging Ext.P2 order terminating the petitioner's agreement that the petitioner has approached this Court.

3. The learned Government Pleader submits that the W.P.(C)No.27400 of 2014 2 petitioner committed serious lapses in executing the work and he has given

sufficient time to execute the work. Therefore the department justified in terminating the agreement at the risk and cost of the petitioner.

4. The petitioner undertakes before this Court that he is prepared to carry out the work awarded to him. The petitioner also submits that he will complete the work before 30.1.2015, time which have already given to him by the department. As far as the department is concerned, execution of the work is more important. Therefore, the petitioner should be given an opportunity to complete the work as undertaken by him. In view of the matter the petitioner shall execute a supplementary agreement within seven days from the date of receipt of a copy of this judgment. The petitioner shall undertake that he will complete the work on or before 30.1.2015. It is made clear that if the petitioner fails to execute the work or makes any default in executing the work, the department is free to take appropriate action. In view of the above, Ext.P2 is set aside. The writ petition is disposed of as above. Sd/- A.MUHAMED MUSTAQUE JUDGE vpv

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