

Green Method Engineering (P) Ltd., vs the State of Kerala,

Green Method Engineering (P) Ltd., vs the State of Kerala,

SooperKanoon Citation : sooperkanoon.com/1606349

Court : Kerala

Decided On : Sep-14-2021

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : WP(C)/3972/2020

Appellant : Green Method Engineering (P) Ltd.,

Respondent : The State of Kerala,

Judgement :

WP(C) NO. 3972 OF 2020 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
TUESDAY, THE 14TH DAY OF SEPTEMBER 2021 / 23RD BHADRA,
1943 WP(C) NO. 3972 OF 2020 PETITIONER/S: GREEN METHOD
ENGINEERING (P) LTD., REPRESENTED BY ITS EXECUTIVE
DIRECTOR, DAVIS M.V., ATC BUILDING, MOOLEPADOM NAGAR
ROAD, H.M.T.JUNCTION, KALAMASSERY, KOCHI, PIN - 683 104. BY
ADV C.V.MILTON RESPONDENT/S: 1 THE STATE OF KERALA,
REPRESENTED BY PRINCIPAL SECRETARY TO HEALTH AND
FAMILY WELFARE DEPARTMENT, SECRETARIAT,

THIRUVANANTHAPURAM, MUSEUM - 695 001. 2 THE PRINCIPAL, GOVERNMENT AYURVEDA COLLEGE, PARIYARAM MEDICAL COLLEGE, KANNUR, PIN - 670 503. 3 THE DIRECTOR, DIRECTORATE OF AYURVEDA MEDICAL EDUCATION, AROGYA BHAVAN, M.G.ROAD, THIRUVANANTHAPURAM G.P.O., THIRUVANANTHAPURAM - 695001.

4 HINDUSTAN PREFAB LIMIED, REPRESENTED BY ITS REGIONAL IN CHARGE (SZ), TC 014. BY ADVS. SR. GOVERNMENT PLEADER, SMT.RASHMI K.M SMT.MOLLY JACOB OTHER PRESENT: THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14.09.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C) NO. 3972 OF 2020 2 P.V.KUNHIKRISHNAN, J
----- W.P.(C.) No.3972 of 2020
----- Dated this the 14th day of September, 2021

JUDGMENT

The above writ petition is filed with following prayers : i. To call for the records of the case; ii. To issue a Writ of Mandamus or any other appropriate writ,

order or direction commanding the 2nd, 3rd and 4th respondents to

pay direction, commanding the 4th respondents to pay Rs. 21,06,054/- with 18% interest from 16.10.2014 immediately and iii. To issue such and other further reliefs as this Honourable Court deems fit and proper to grant in the facts and circumstances of this case including cost.

2. When this writ petition came up for consideration, the

learned Government Pleader takes me through paragraph Nos. 12 and 16 of the counter affidavit filed by the 3rd respondent. It will be better to extract those paragraphs.

12. In the Audit Report of the Accountant General conducted during august 2014, (8/2014) it directed to recover Rs.4,88,050/- from the 4th respondent, the Consultant towards the penalty for the delay in completion of work as per the clause 1 (J) of agreement executed for construction of Sewage Treatment plant. As such the 2nd respondent had directed the 4th respondent to remit the penalty amount as per letter dated 17.09.2014.

13. xxx xxx

14. xxx xxx WP(C) NO. 3972 OF 2020 3

15. xxx xxx

16. As per the final bill submitted by the 4th respondent the

balance amount of Rs.13,19,372/- was drawn from the Treasury in the year 2015-16 and was kept as two Demand Drafts for Rs.4,88,050/- & Rs.8,31,322/- respectively and the same has been reported to the 3rd respondent with request to release Rs.8,31,322/- to the 4th respondent by keeping Rs.4,88,050/- as penalty for delay in completion of the construction work as per the direction from the Accountant General.

3. The learned counsel for the 4th respondent submitted

that once the amount of Rs.8,31,322/- is received from the 3 rd respondent, appropriate steps will be taken to pay the amount due to the petitioner. The learned counsel also takes me through the counter affidavit filed by the 4 th respondent. Paragraph 12 is the relevant paragraph, which is extracted hereunder :

12. It is submitted that the Exhibit P12 account statement produced by the petitioner is not fully correct. Therefore the statement of accounts showing the final bill value, the amounts already released and the

breakup of the details of Rs. 21,06,052/- claimed by petitioner, actual amount due to the petitioner in the above case is produced here with and marked as Exhibit R4 (d). From Exhibit R4 (d) it can be seen that total amount due to the petitioner including security deposit is only Rs 12,74,730/- and not Rs 21,06,054/- claimed by him. The balance amount due towards the work done by the petitioner will be paid after receiving the amount from the 2nd respondent on the petitioner producing a no claim certificate. The total amount due to the petitioner including security deposit is only Rs. 12,74,730/- and this amount will be released on getting an indemnity bond and no claim certificate from the petitioner.

4. In this paragraph, it is stated that the petitioner is

entitled an amount of Rs.12,74,730/-. It is also stated that the amount will be released on getting an indemnity bond and no WP(C) NO. 3972 OF 2020 4 claim certificate from the petitioner.

5. In the light of the above submissions, I think this writ

petition can be disposed, directing the 3rd respondent to release the amount mentioned in the counter affidavit to the 4th respondent and the 4th respondent can be directed to pay the admitted amount to the petitioner. Therefore, this writ petition is disposed in the following manner : 1) The 3rd respondent is directed to transfer an amount of Rs.8,31,322/- to the 4th respondent within two weeks from the date of receipt of a copy of this judgment. 2) On receipt of the amount, the 4th respondent will disburse the amount of Rs.12,74,730/- to the petitioner within one week from the date of receipt of the amount from the 3rd respondent, after complying the other formalities. 3) All other contentions of the petitioner are left open. SD/- P.V.KUNHIKRISHNAN JUDGE SKS WP(C) NO. 3972 OF 2020 5 APPENDIX OF WP(C) 3972/2020 PETITIONER EXHIBITS EXHIBIT P1 TRUE COPY OF THE TENDER NOTICE NO NIT NO.HPL/NIT/TVM/184/2012-13 DATED EXHIBIT P2 TRUE COPY OF THE LETTER OF AWARD NO.NO.HPL/CE/LOA/2013-14/166/829 DATED EXHIBIT P3 TRUE COPY OF THE AGREEMENT DATED 21/02/2014 BETWEEN THE PETITIONER AND THE 4TH RESPONDENT. EXHIBIT P4 TRUE COPY OF THE LOCATION OF THE

PIPE LINE LAY OUT APPROVED BY THE 2ND RESPONDENT ON EXHIBIT P5 TRUE COPY OF THE COMPLETION CERTIFICATE DATED 7/03/2015. EXHIBIT P6 TRUE COPY OF THE LETTER NO.HPL/KKD/SR/STPP/2015-01 DATED EXHIBIT P7 TRUE COPY OF THE LETTER NO.NHRM/608/STP-KNR & JPRA/C(E) 2013 DATED 17/11/2016. EXHIBIT P8 TRUE COPY OF LETTER NO.HPL/RI/ACK-STP/2019- EXHIBIT P9 TRUE COPY OF THE LETTER NO.HPL/RI/ACK- STP/2019-20/322 DATED 28/09/2019. EXHIBIT P10 TRUE COPY OF THE RENEWAL CERTIFICATE NO.NSIC/GP/COC/2015/0018011 ISSUED TO THE PETITIONER BY THE NATIONAL SMALL INDUSTRIES CORPORATION. EXHIBIT P11 TRUE COPY OF THE LETTER WP(C) NO. 3972 OF 2020 6 NO.A3/1958/2012/AYURVEDA COLLEGE KANNUR DATED 28/11/2016 ISSUED TO 3RD RESPONDENT. EXHIBIT P12 TRUE COPY OF THE ACCOUNT STATEMENT SHOWING THE BALANCE AMOUNT OF RS.21,06,054/- PREPARED BY THE APPLICANT AND SENT TO THE 4TH RESPONDENT. EXHIBIT P13 TRUE COPY OF THE LETTER NO.HPL/PM(c)/TC/AWARD/2019-20/02/60 DATED EXHIBIT P14 TRUE COPY OF THE LETTER NO.A3/1958/2012 ACK DATED 18/11/2014 EXHIBIT P15 TRUE COPY OF THE LETTER NO A3/1958/2012/ACK DATED 5/3/2015 RESPONDENT'S EXHIBITS EXT.R4(A) TRUE COPY OF THE LETTER DT. 22.3.2016 OF 3RD RESPONDENT TO THE 2ND RESPONDENT EXT.R4(B) TRUE COPY OF THE LETTER

NO.HPL/R1/ACL/STP/2019-2020/322 DT.28.9.2019OF DEPUTY GENERAL MANAGER, REGIONAL-IN-CHARGE OF HPL ADDRESSED TO 2ND RESPONDENT. EXT.R4(C) TRUE COPY OF THE LETTER NO.HPL/CE/LOA/2013- HPL TO PETITIONER EXT.R4(D) TRUE COPY OF THE STATEMENT CONTAINING FINAL BILL VALUE THE AMOUNTS ALREADY RELEASED AND THE BREAKUP OF THE DETAILS OF RS.21,06,052/- CLAIMED BY PETITIONER.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com