

Ummer K. Vs. State of Kerala

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Court : Kerala

Decided On : Jun-16-2015

Judge : Honourable Mr.Justice a.M.Shaffique

Appellant : Ummer K.

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE TUESDAY,THE16H DAY OF JUNE201526TH JYAISHTA, 1937 WP(C).No. 21725 of 2013 (M)
----- PETITIONER : ----- UMMER K.,
AGED26YEARS, S/O.SAJID HAJI, RESIDING AT KULATHINGAL HOUSE THATHANAMPULLY POST, KULLUKKALLOOR, PATTAMBI KERALA-679 337.
BY ADVS.SRI.C.V.MANUVILSAN SRI.P.G.SURESH SRI.G.SUDHEER (THURAVOOR) SMT.K.VIDYA SRI.RAJAN VISHNURAJ RESPONDENT(S) :
----- 1. STATE OF KERALA REPRESENTED BY ITS SECRETARY DEPARTMENT OF LOCAL SELF GOVERNMENT DEPARTMENT SECRETARIAT ANNEX, SECRETARIAT THIRUVANANTHAPURAM, PIN-695001.

2. KULUKKALLUR GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY, MULAYANKAVU POST KULUKKALLUR, PATTAMBI, PALAKKAD-679 337.

3. THE SECRETARY, KULUKKALLUR GRAMA PANCHAYATH, MULAYANKAVU P.O., KULUKKALLUR, PATTAMBI, PALAKKAD-679337.

4. THE ASSISTANT ENGINEER, LSGD KULUKKALLUR GRAMA PANCHAYATH, KULUKKALLUR MULAYANKAVU P.O., KULUKKALLUR, PATTAMBI PALAKKAD-679 337.

5. ASSISTANT EXECUTIVE ENGINEER, LSGD SUB DIVISION, PATTAMBI BLOCK PANCHAYATH PATTAMBI P.O., PALAKKAD-679303.

6. THE DEPUTY DIRECTOR, OFFICE OF THE DEPUTY DIRECTOR OF PANCHAYATHS PALAKKAD DISTRICT-678001. R1, R4, R5 & R6 BY GOVT. PLEADER SRI. K.T. LILLY R2 & R3 BY ADVS. SRI.T.C.SURESH MENON SRI.P.S.APPU THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON1606-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Mn ...2/- WP(C).No. 21725 of 2013 (M)

----- APPENDIX PETITIONERS' EXHIBITS :
----- EXT. P1: PHOTOCOPY OF THE PROJECT FORMATION FORM OF THE11H PEOPLE'S PLANNING PROGRAMME. EXT. P2: PHOTOCOPY OF THE MINUTES OF THE FORMATION MEETING OF THE BENEFICIARY COMMITTEE IN THE YEAR2009 EXT. P3: PHOTOCOPY OF THE ESTIMATE REPORT PREPARED BY THE4H RESPONDENT IN THE YEAR2009 EXT. P3(a): PHOTOCOPY OF THE SITE PLAN PREPARED BY THE4H RESPONDENT IN THE YEAR2009 EXT. P4: PHOTOCOPY OF THE AGREEMENT NO.28/AE/LSGD/2009-10 BETWEEN THE CONVENOR OF THE BENEFICIARY COMMITTEE AND THE4H RESPONDENT DATED251.2010. EXT. P5: PHOTOCOPY OF THE LETTER DATED283.2010. EXT. P6: PHOTOCOPY OF THE WORK SLIP. EXT. P6(a): PHOTOCOPY OF THE STATEMENT ABOUT THE VALUE OF WORK DONE ISSUED BY THE3D RESPONDENT. EXT. P7: PHOTOCOPY OF THE RESIGNATION LETTER OF THE COMMITTEE MEMBERS SUBMITTED TO THE2D RESPONDENT DATED1901.2012. EXT. P8: PHOTOCOPY OF THE MINUTES OF THE MEETING DATED2401.2012 HELD BY THE BENEFICIARIES OF THE ROAD COMMITTEE. EXT. P9: PHOTOCOPY OF THE RESOLUTION NO.8(3)

DATED191.2012. EXT. P10: PHOTOCOPY OF THE LAWYER NOTICE DATED2008.2012 TO THE2D RESPONDENT. EXT. P11: PHOTOCOPY OF THE REPLY LEGAL NOTICE DATED1810.2012 TO THE PETITIONER. EXT. P12: PHTOOCOPY OF THE APPLICATION DATED1004.2013 UNDER RTI TO THE2D RESPONDENT BY K.KHADER HAJI. EXT. P13: PHTOTOCOPY OF THE REPLY GIVEN BY THE2D RESPONDENT TO THE APPLICANT. EXT. P14: PHOTOCOPY OF THE REPLY DATED0705.2013 ALONG WITH REPLY OF THE QUERIES IN EXHIBIT P12 APPLICATION. EXT. P15: PHOTOCOPY OF THE REPRESENTATION DATED1906.2013 PREFERRED BEFORE THE4H RESPONDENT BY THE2D RESPONDENT. (Contd...) WP(C).No. 21725 of 2013 (M) EXT. P16: PHOTOCOPY OF THE APPEAL DATED1007.2013. EXT. P17: PHOTOCOPY OF THE REPLY DATED177.2013 GIVEN BY THE2D AND4H RESPONDENT. EXT. P18: PHOTOCOPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE2D RESPONDENT PANCHAYATH BY STATING ALL THE FACTUAL POSITIONS. EXT. P19: PHOTOCOPY OF THE COMPLAINT PREFERRED BY THE PETITIONER TO THE RESPONDENTS NO.1 AND6 BY HIGHLIGHTING THE SHEER INJUSTICE AND BUREAUCRATIC ARROGANCE COMMITTED BY THE RESPONDENTS NO.2-4. EXT. P20: PHOTOCOPY OF THE RESOLUTION OF THE BENEFICIARY COMMITTEE DATED0608.2012. RESPONDENT(S)' EXHIBITS : NIL
----- //TRUE COPY// P.S. TO JUDGE Mn
A.M.SHAFFIQUE, J * * * * * W.P.C.No.21725 of 2013
----- Dated this the 16th day of June 2015

JUDGMENT

Petitioner has approached this Court inter alia contending that he, being the Convener of a beneficiary committee formed for the purpose of construction of a road Mullathupadi - Valiaparambu Road vide Project No.196 of the Kulukkallur Grama Panchayath, has not been paid the amount despite the completion of the said work. He had submitted Ext.P19 representation to respondents 1 and 6; but so far no action has been taken in the matter and therefore the petitioner has approached this Court for a direction to disburse the amount to the beneficiary committee. It is inter alia stated by the petitioner that though the work was

originally granted to the beneficiary committee in which another person was Convener, due to ill health, Panchayath had requested the Beneficiary Committee in which the petitioner was the Convener to W.P.C.No.21725/2013 2 perform the work. Reference was also made to Ext.P9 resolution of the Panchayath dated 25/01/2012.

2. Counter affidavit has been filed by the respondent Panchayath inter alia stating that no agreement was executed with the petitioner and that the work was entrusted to a beneficiary committee in which one K.K.Kunju Mohammed was the Convener and Mr.V.M.Hussain was the Chairman. Agreement was also executed on 25/01/2010. It is also stated that the new Committee headed by the petitioner has not entered into any agreement with the Panchayath. Further, it is stated that the proposed road is to run along the properties of 9 families who are yet to surrender their land. Having regard to the aforesaid factual situation, it was decided not to release any amount to the petitioner.

3. Learned Government Pleader, on instructions, would submit that on verification of the records, it was found that the work was entrusted to a beneficiary committee in W.P.C.No.21725/2013 3 which another person was Convener and that three families have not surrendered their land for formation of the road.

4. Contentions urged on behalf of the Panchayath as well as other Governmental authorities have been disputed by the petitioner. Strong reliance has been placed by the learned counsel for the petitioner on Ext.P9 to indicate that it was in the light of the resolution passed by the Panchayath that the petitioner had undertaken the work as Convener of the beneficiary committee which cannot be disputed. It is also submitted that the only reason for not paying the amount is on account of the fact that an agreement was executed with another person. But the fact remains that the petitioner, based on Ext.P9 resolution, had undertaken the work and has completed the same. Having regard to these factual disputes, I am of the view that this matter has to be verified by the 6th respondent. If the petitioner, as Convener of the beneficiary Committee, has in fact completed the work or atleast a W.P.C.No.21725/2013 4 portion of it, the Panchayath is bound to pay the amount atleast to the extent of work completed by him. In the said circumstances, this writ

petition is disposed of as under: Petitioner shall supply a copy of the representation along with a copy of this judgment to the 6th respondent, who shall conduct enquiry into the matter and pass appropriate orders within a period of two months from the date of receipt of a copy of this judgment. Decision shall be taken after hearing the respondent Panchayath as well. (sd/-) (A.M.SHAFIQUE, JUDGE) jsr W.P.C.No.21725/2013 5 W.P.C.No.21725/2013 6

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