

(2023) 02 KL CK 0222
In the High Court Of Kerala
Case No : Writ Petition (C) No. 19875 Of 2022

Assain Haji

APPELLANT

Vs

Kottakkal Co Operative Urban Bank Ltd

RESPONDENT

Date of Decision : 22-02-2023

Acts Referred:

Citation : (2023) 02 KL CK 0222

Hon'ble Judges : Shaji P.Chaly, J

Bench : Single Bench

Advocate : G.Hariharan, Praveen.H., Smitha Praveen, V.R.Sanjeev Kumar, Anjaly T.A, Devaprasanth.P.J, Deepa Narayanan

Final Decision : Disposed Of

Judgement

Shaji P. Chaly, J.

1. Petitioner is a contractor undertaking various civil works. Petitioner was engaged by the State Public Works Department for the following works:

"1. Urgent surface rectification works between Km 1/600 and Km 5/800 in Othukkungal – Vengara road in Vengara LAC Works General Civil Work.

Agreement No.EE(M) 175/2019-20 Dated 04.03.2020

Gross - 43,08,021/-

Net - 39,00,554/-

2. SLTF 2019-20 Surface rectification and providing BM & BC works from Km 3/250 to 3/450 of Vengara – Achanambalam road in Vengara LAC.

Agreement No.EE(M) 140/2019-20 Dated 05.05.2020

Gross - 21,33,896/-

Net - 20,22,411/-."

2. Case of the petitioner is that in spite of certification of the bills, it is not released to the petitioner, which is causing serious prejudice to the petitioner especially when the Kottakkal Co-operative Urban Bank Ltd. - the 1st respondent, has initiated coercive action against the petitioner to recover a loan amount.

3. The Executive Engineer, Local Self Government Department Division, Malappuram - the 5th respondent has filed a statement, whereby the award of contracts to the petitioner is admitted. But it is stated that even though the bill is forwarded to the Finance Department, no concurrence is secured for release of the money.

4. I have heard learned counsel for petitioner Sri.G.Hariharan, learned Standing Counsel for the 1st respondent - Sri.Devaprasanth. P.J., learned Senior Government Pleader Smt.Deepa Narayanan and perused the pleadings and material on record.

5. learned Senior Government Pleader, on instructions, submitted that the amount claimed by the petitioner is due to him, however, concurrence is not secured from the Finance Department and therefore, sometime may be required to release the amount.

6. In my considered opinion, when the petitioner is facing recovery action from the 1st respondent bank, the State Government and its officials are duty bound to discharge their obligations especially when the work was completed and the bill raised by the petitioner remaining due, are undisputed. It is further submitted that in two contracts, a net amount of Rs.39,00,554/- and Rs.20,22,411/-, are due to the petitioner.

Therefore, there will be a direction to the competent among the respondents to pay 50% of the amount within six weeks from the date of receipt of a copy of this judgment and the balance 50% of the amount, within a further period of six weeks from the said date of the first payment.

Writ petition is disposed of accordingly.