

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT

THE HONOURABLE MR.JUSTICE GOPINATH.P.

TUESDAY, THE 12TH DAY OF MAY, 2020/22ND VAISAKHA, 1942

W.P(C) NO.8769 OF 2020

PETITIONER:

M/S. P.K.K. CONSTRUCTIONS (ENGINEERS & CONTRACTORS)
KEEZHUPARAMBA POST, AREACODE,
MALAPPURAM.
REPRESENTED BY ITS MANAGING PARTNER
P.K. KAMMADKUTTY,
AGED: 62 , S/O. LATE. MUHAMMED HAJI,
RESIDING AT: KOLATHIKKAL HOUSE,
KEEZHUPARAMBU, AREEKODE VIA,
MALAPPURAM DISTRICT. -673639

BY ADV V.PHILIP MATHEWS

RESPONDENTS:

1. STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY,
KERALA GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001
2. THE PRINCIPAL SECRETARY,
PUBLIC WORKS DEPARTMENT
KERALA GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001
3. THE EXECUTIVE ENGINEER
OFFICE OF THE EXECUTIVE ENGINEER
PWD BRIDGES DIVISION , KANNUR-67001
4. THE SUPERINTENDING ENGINEER,
OFFICE OF SUPERINTENDENT OFFICE
PWD BRIDGES , NORTH CIRCLE,
KOZHICKODE-67347
5. THE SUPERINTENDING ENGINEER,
PWD BRIDGES, SOUTH CIRCLE,
ALAPPUZHA-688007

R1-5 BY SRI. GOVERNMENT PLEADER K.P.HARISH

THIS WRIT PETITION HAVING COME UP FOR ADMISSION ON 12.05.2020,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Dated this the 12th day of May, 2020

ORDER

The Executive Engineer, PWD Roads Division, Kasargod is suo-motu impleaded as the additional 6th respondent in the above writ petition. Sri.Philip Mathew, learned counsel for the petitioner would submit that in respect of the work that he is undertaking at Kasargod, under the supervision of the additional 6th respondent, he may be permitted to submit 5th or any of the bills pending for payment as security deposit for the work mentioned in Ext.P1 instead of the 4th bill now pledged as security. The learned Govt. Pleader submits that if amounts are due and payable in respect of the bills which have been duly submitted and such amounts are sufficient to cover the amount of security deposit, there should be no objection for replacement of security as

requested for by the petitioner. The learned counsel for the petitioner would submit that Ext.P2 will show that the bill which he wants to replace as security is pending for payment and the amount under that bill is sufficient for the purpose of providing security deposit. Considering the above, there will be an interim order directing the respondents to permit the petitioner to replace the bills already deposited towards security with any other bill which is submitted by him and against which amounts are due for payment, provided the bill amount so substituted is sufficient to cover the amount of security deposit.

GOPINATH.P, JUDGE

pm

APPENDIX

PETITIONERS EXHIBITS:-

EXHIBIT P1: COPY OF LETTER OF ACCEPTANCE DATED 16-04-2018 FROM THE 4TH RESPONDENT TO THE PETITIONER RELATING TO CONSTRUCTION OF THOTTUKARA BRIDGE IN KASARGOD DISTRICT

EXHIBIT P2: COPY OF LETTER DATED 16-03-2020 FROM THE 3RD RESPONDENT MENTIONED PENDING BILLS RELATING TO EXHIBIT P1

EXHIBIT P3: COPY OF LETTER OF ACCEPTANCE DATED 13-03-2020 FROM THE 5TH RESPONDENT RELATING TO KRFB, ALAPPUZHA CITY ROAD IMPROVEMENT

EXHIBIT P4: COPY OF LETTER DATED 12-03-2020 FROM THE 4TH RESPONDENT TO THE PETITIONER INFORMING THAT PLEDGED BILLS CANNOT BE REPLACED

EXHIBIT P5: COPY OF REPRESENTATION DATED 16-03-2020 FROM THE PETITIONER TO THE 5TH RESPONDENT FOR ACCEPTING PENDING BILLS AS SECURITY DEPOSIT

EXHIBIT P6: COPY OF LETTER DATED 17-03-2020 FROM THE 5TH RESPONDENT REJECTING EXHIBIT P5

EXHIBIT P7: COPY OF JUDGMENT DATED 25-02-2020 IN W.P(C)NO.3457/2020 DIRECTING RESPONDENTS 1 AND 2 TO ADJUST UNPAID BILLS TO COVER AMOUNTS TOWARDS SECURITY DEPOSIT AND PERFORMANCE GUARANTEE

RESPONDENTS EXHIBITS: NIL