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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

TUESDAY, THE 8TH DAY OF APRIL 2025 / 18TH CHAITHRA, 1947

WP(C) NO. 7196 OF 2025

PETITIONER:

SURYA CONSTRUCTIONS, THRIPIUNITHURA REP. BY ITS
MANAGING PARTNER JOSE VALOTHIL
ENGINEERS & CONTRACTORS, 4TH FLOOR, MALAYIL MAJESTY,
NEAR RAILWAY OVERBRIDGE, REFINERY ROAD,
THRIPIUNITHURA, KOCHI-6 8 2 3 0 1 REPRESENTED BY ITS
MANAGING PARTNER JOSE VALOTHIL, S/O YOYAK, AGED 68
YEARS, RESIDING AT VALOTHIL HOUSE, LITTLE PALACE
LANE, THIRUVANKULAM PO, ERNAKULAM, PIN - 682305

BY ADVS.
SAJI VARGHESE KAKKATTUMATTATHIL
AMALENDU A.

RESPONDENTS:

- 1 KERALA WATER AUTHORITY
REPRESENTED BY ITS MANAGING DIRECTOR, JALA BHAVAN,
THIRUVANANTHAPURAM, PIN - 695033
- 2 THE FINANCE MANAGER
KERALA WATER AUTHORITY, JALABHAVAN,
THIRUVANANTHAPURAM, PIN - 695033
- 3 SUPERINTENDING ENGINEER
KERALA WATER AUTHORITY, PH CIRCLE, MALAPPURAM, PIN -
676505
- 4 SUPERINTENDING ENGINEER
KERALA WATER AUTHORITY, PUBLIC HEALTH CIRCLE, KANNUR,
PIN - 670012



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5 SUPERINTENDING ENGINEER
KERALA WATER AUTHORITY, PUBLIC HEALTH CIRCLE, KOCHI,
PIN - 682011

6 SUPERINTENDING ENGINEER
KERALA WATER AUTHORITY, PUBLIC HEALTH CIRCLE,
MUVATTUPUZHA, PIN - 686661

BY ADV P.M.JOHNY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
08.04.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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JUDGMENT

The writ petition is filed to direct the second respondent to substitute the performance guarantee, bank guarantees, retention amount, treasury deposits, security deposits, maintenance charges and other deposits (in short 'deposits') by adjusting the amounts from Exts.P1 to P5 approved bills.

2. The petitioner is a work contractor with first respondent authority. The petitioner was awarded with nine works under the respondents 1 to 6. An amount of Rs.50,66,09,886/- is due to the petitioner as per the running bills. The 1st respondent authority has not paid the running bills alleging paucity of funds. The petitioner has deposited Rs.6,55,27,110/- towards various deposits for the above said nine contracts. The petitioner submitted four representations to respondents 3 to 5 to release the deposits made by the petitioner by adjusting the amount from Exts.P1 to P5 running bills. In a case of identical



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nature, by Ext.P17 judgment, this Court has permitted the substitution of the deposits, by adjusting the amount from the running bills. The petitioner is entitled to the benefit of a similar judgment. Hence, the writ petition.

3. Heard; the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondents.

4. On a consideration of the facts and the materials on record, particularly that Exts.P1 to P5 running bills are pending payment with 1st respondent authority and the petitioner is in a financial crisis, I am the view that the said security deposits submitted by the petitioner can be adjusted from Exts.P1 to P5 running bills.

In the aforesaid circumstances, I allow the writ petition, by directing the 3rd respondent to substitute the performance guarantee, bank guarantees, retention amount, treasury deposits, security deposits, maintenance charges and other deposits in lieu of Exts.P1 to P5 approved bills. Needless to mention, the petitioner would have to



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execute the requisite undertaking/indemnity letter in favour of the respondents as per their regulations. The above exercise shall be carried out by the respondents within one month from the date of production of a certified copy of this judgment.

The writ petition is ordered accordingly.

Sd/-C.S.DIAS
JUDGE

lsn



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APPENDIX OF WP(C) 7196/2025

PETITIONER EXHIBITS

- Exhibit P1 A TRUE COPY OF THE CB-3 DATED 1.8.2023
ISSUED BY THE 3RD RESPONDENT FOR AN AMOUNT
OF RS.1,32,65,179/- TOWARDS THE PAYMENT OF
RUNNING BILL IN CONNECTION WITH THE WORK
REFERRED AS (A) IN THE ABOVE TABLE
- Exhibit P2 A TRUE COPY OF THE CB-3 DATED 17.01.2025
ISSUED BY THE 4TH RESPONDENT TOWARDS THE
PAYMENT OF RUNNING BILL IN CONNECTION WITH
THE WORK REFERRED AS (B) IN THE ABOVE TABLE
FOR RS.3,25,06,445/-
- Exhibit P3 A TRUE COPY OF THE CB-3 DATED 17.01.2025
ISSUED BY THE 4TH RESPONDENT TOWARDS THE
PAYMENT OF RUNNING BILL IN CONNECTION WITH
THE WORK REFERRED AS (C) IN THE ABOVE TABLE
FOR RS. 3,78,89,376/-
- Exhibit P4 A TRUE COPY OF THE CB-3 DATED 23.12.2024
ISSUED BY THE 5TH RESPONDENT TOWARDS THE
PAYMENT OF RUNNING BILL IN CONNECTION WITH
THE WORK REFERRED AS (D) IN THE ABOVE TABLE
FOR RS. 1,92,54,715/-
- Exhibit P5 A TRUE COPY OF THE CB-3 DATED 04.02.2025
ISSUED BY THE 6TH RESPONDENT TOWARDS THE
PAYMENT OF RUNNING BILL IN CONNECTION WITH
THE WORK REFERRED AS (E) IN THE ABOVE TABLE
FOR RS. 1,90,86,048/-
- Exhibit P6 A TRUE COPY OF THE BANK GUARANTEE DATED
05.09.2023 FOR RS.31,13,850/- PROVIDED BY
THE PETITIONER IN CONNECTION WITH WORK
REFERRED AS (A) IN THE ABOVE TABLE
- Exhibit P7 A TRUE COPY OF THE TREASURY DEPOSIT DATED
08.09.2023 FOR RS.31,13,850/- PROVIDED BY
THE PETITIONER IN CONNECTION WITH WORK
REFERRED AS (A) IN THE ABOVE TABLE
- Exhibit P8 A TRUE COPY OF THE BANK GUARANTEE DATED
23.08.2023 FOR RS.1,02,34,500/- PROVIDED BY
THE PETITIONER IN CONNECTION WITH WORK



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REFERRED AS (B) IN THE ABOVE TABLE

- Exhibit P9 A TRUE COPY OF THE TREASURY DEPOSIT DATED 23.08.2023 FOR RS. 1,02,34,500/- PROVIDED BY THE PETITIONER IN CONNECTION WITH WORK REFERRED AS (B) IN THE ABOVE TABLE
- Exhibit P10 A TRUE COPY OF THE BANK GUARANTEE DATED 15.09.2023 FOR RS. 82,47,138/- PROVIDED BY THE PETITIONER IN CONNECTION WITH WORK REFERRED AS (C) IN THE ABOVE TABLE
- Exhibit P11 A TRUE COPY OF THE TREASURY DEPOSIT DATED 16.09.2023 FOR RS. 14,25,000/- PROVIDED BY THE PETITIONER IN CONNECTION WITH WORK REFERRED AS (C) IN THE ABOVE TABLE
- Exhibit P12 A TRUE COPY OF THE TREASURY DEPOSIT DATED 23.08.2023 FOR RS. 68,23,000/- PROVIDED BY THE PETITIONER IN CONNECTION WITH WORK REFERRED AS (C) IN THE ABOVE TABLE
- Exhibit P13 A TRUE COPY OF THE BANK GUARANTEE DATED 24.05.2023 FOR RS.40,69,236/- PROVIDED BY THE PETITIONER IN CONNECTION WITH WORK REFERRED AS (D) IN THE ABOVE TABLE
- Exhibit P14 A TRUE COPY OF THE TREASURY DEPOSIT DATED 26.05.2023 FOR RS. 40,69,236/- PROVIDED BY THE PETITIONER IN CONNECTION WITH WORK REFERRED AS (D) IN THE ABOVE TABLE
- Exhibit P15 A TRUE COPY OF THE BANK GUARANTEE DATED 03.05.2023 FOR RS.70,98,400/- PROVIDED BY THE PETITIONER IN CONNECTION WITH WORK REFERRED AS (E) IN THE ABOVE TABLE
- Exhibit P16 A TRUE COPY OF THE TREASURY DEPOSIT DATED 30.05.2022 FOR RS. 70,98,400/- PROVIDED BY THE PETITIONER IN CONNECTION WITH WORK REFERRED AS (E) IN THE ABOVE TABLE
- Exhibit P17 TRUE COPY OF THE JUDGMENT DATED 19.08.2024 IN WPC NO.28368 OF 2024
- Exhibit P18 A TRUE COPY OF THE G.O.(RT) NO.5989/2020/FIN. DATED OCTOBER 16, 2020



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- Exhibit P19 A TRUE COPY OF THE LETTER DATED 17.01.2025
SENT BY THE PETITIONER TO THE RESPONDENTS 3
TO 4
- Exhibit P20 A TRUE COPY OF THE LETTER DATED 17.01.2025
SENT BY THE PETITIONER TO THE RESPONDENTS 3
TO 4
- Exhibit P21 A TRUE COPY OF THE LETTER DATED 17.01.2025
SENT BY THE PETITIONER TO THE RESPONDENTS 3
TO 4
- Exhibit P22 A TRUE COPY OF THE LETTER DATED 17.01.2025
SENT BY THE PETITIONER TO THE RESPONDENTS 3
TO 4
- Exhibit P23 A TRUE COPY OF THE LETTER DATED 08.02.2025
SENT BY THE PETITIONER TO THE 5TH
RESPONDENT
- Exhibit P24 A TRUE COPY OF THE ORDER NO.KWA-
JB/5408/2023-F1(FUNDS) DATED 06.01.2024
ISSUED BY THE MANAGING DIRECTOR OF THE 1ST
RESPONDENT