IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY ,THE 02ND DAY OF APRIL 2019 / 12TH CHAITHRA, 1941

RP.No. 1042 of 2015 IN WP(C). 21682/2013

AGAINST THE ORDER/JUDGMENT IN WPC 21682/2013 of HIGH COURT OF
KERALA

REVIEW PETITIONERS/RESPONDENTS 2 & 3 IN WP(C):

1   KERALA FOREST DEVELOPMENT CORPORATION
        DIVISIONAL OFFICE, VELLAYAMBALAM, SASTHAMANGALAM
        P.O., THIRUVANANTHAPURAM 695010 REPRESENTED BY ITS
        CHAIRMAN.

2   THE DIVISIONAL MANAGER
        KERALA FOREST DEVELOPMENT CORPORATIONDIVISIONAL
        OFFICE, VELLAYAMBALAM, SASTHAMANGALAM P.O.,
        THIRUVANANTHAPURAM 695010 .

        BY ADV. SRI.T.R.HARIKUMAR

RESPONDENTS/PETITIONER & 1ST RESPONDENT IN WP(C)
1   SHAJAHAN J.
        S/O.LATE JAMALUDHEEN, THUMBIKUNNATHU VEEDU, EDAMON
        P.O., PUNALUR-691307.

2   STATE OF KERALA
        REPRESENTED BY THE SECRETARY, DEPARTMENT OF FOREST
        AND WILD LIFE, KERALA GOVERNMENT SECRETARIAT,
        THIRUVANANTHAPURAM, PIN-695001.

OTHER PRESENT:
        SMT RAJI T. BHASKAR GP

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 02.04.2019, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:

O R D E R

The Corporation has filed the review contending
that there is a loss occasioned by reason of the
re-tender proceedings carried out; necessitated only by
the withdrawal of the respondent/petitioner in the writ
petition. The issue agitated by the writ petitioner
before this Court was with respect to the tender
submitted on behalf of the writ petitioner for an
astronomical sum of Rs.45 lakhs in response to Ext. P1
advertisement inviting tenders for cutting and removal
of trees from different plantations.

2. The writ petitioner's contention was that he
had only intended to bid an amount of 4,05,000/-
however, the person who submitted the tender on his
behalf showed the bid amount as Rs.45 lakhs. The writ
petitioner before opening the tenders submitted a
request for withdrawing his tender which also was not

allowed by the Corporation. This Court considering the totality of the circumstances, found that there is no point in mulcting the petitioner with damages. But however, directed forfeiture of the EMD.

3. The Corporation admittedly conducted a re-tender and which was confirmed for about Rs.24 lakhs. It is now claimed that there is a loss caused, which has been computed on the difference from the original quote made by the writ petitioner. Review is sought, to carry out recovery against the writ petitioner. There is absolutely no cause for review since there is no error apparent on the face of the record and this Court had considered the totality of the circumstances while passing judgment absolving the writ petitioner from damages but however, enabling forfeiture of the EMD. The document relied on and produced is Annexure-II dated 27.05.2014, by which the Managing Director of the Corporation had computed the damages payable. It is the submission of the Corporation that if the said document was placed before this Court the impugned judgment would not have been

passed. There is no warrant for any such assumption and before presuming that, the Corporation has to explain why the said document, available with the Corporation, was not placed before Court when the writ petition was heard and disposed off. There is no contention, which also cannot be validly raised, that the document was not in the possession of the Corporation or that it was not accessible despite exercise of due diligence; on which ground alone could the review be maintained.

4. This Court accepted the submission of the writ petitioner that the bid amounts as quoted in the tender submitted was an apparent mistake. Hence there is no warrant to quantify damages on the basis of such an apparently mistaken quote. This Court does not find any reason to entertain the review.

Review petition is dismissed. No order as to costs.

Sd/-
K. Vinod Chandran,
jma   Judge

APPENDIX

PETITIONER'S/S EXHIBITS:

ANNEXURE-I   A TRUE COPY OF THE ORDER NO. C1-5001/2013 DATED 12/3/2014 ISSUED BY THE MANAGING DIRECTOR.

ANNEXURE-II   A TRUE COPY OF THE PROCEEDING NO. DM/TVM/809/2009A DATED 27/5/2014 OF THE 2ND REVIEW PETITIONER.