

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

TUESDAY, THE 1ST DAY OF SEPTEMBER 2015/10TH BHADRA, 1937

CRP.No. 856 of 2004 ()

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AGAINST THE ORDER IN E.P.No. 67/2001 IN LAR 101/1983 of SUB COURT,
THODUPUZHA DATED 07-11-2002**

REVISION PETITIONER(S)/RESPONDENT::

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STATE OF KERALA, REP. BY THE
DISTRICT COLLECTOR, IDUKKI.**

BY GOVERNMENT PLEADER SMT. LILLY LESLIE

RESPONDENT(S)/CLAIMANTS::

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- 1. KRISHNAN PILLAI, MATTATHIL HOUSE,
KUDAYATHOOR VILLAGE, KUDAYATHOOR KARA
THODUPUZHA TALUK. (DIED) RECORDED**
 - 2. PARUKUTTY AMMA, W/O. KRISHNAN PILLAI,
DO. DO.**
 - 3. INDIRA, D/O. KRISHNAN PILLAI, DO. DO.**
 - 4. SAJU MOHANAN, S/O. KRISHNAN PILLAI,
DO. DO.**
 - 5. BABURAJ, S/O. KRISHNAN PILLAI, DO. DO.**
 - 6. SHIJI MOL, D/O. KRISHNAN PILLAI, DO. DO.**

**(IT IS RECORDED THAT 1ST RESPONDENT EXPIRED AND HIS LR'S ARE ALREADY IN
THE PARTY ARRAY AS PER ORDER DT. 8/10/2004 VIDE MEMO DATED 1/10/2004)**

**THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON
01-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

ds

P.BHAVADASAN, J.

C.R.P. No. 856 of 2004

Dated this the 01st day of September, 2015

ORDER

Aggrieved by the order dated 07.11.2002 in E.P. No.67/2001 in L.A.R. No. 101/1983 the State, who is the respondent before the court below, has come up in revision.

2. The facts so far as relevant for the purpose of disposal of this revision petition are as follows:

It appears that the land belonging to the respondent herein was acquired by the State and an award was passed. Dissatisfied with the award, the person concerned approached the court. The court enhanced the compensation. The decree holder filed E.P.No.67/2001 in L.A.R.No. 101/1983 before the Sub Court, Thodupuzha.

3. The State, during the course of the proceedings, deposited various amounts and finally they contended that the entire amount has been paid and in fact, excess amount has been paid. It appears from the proceedings that both

the State as well as the claimant were asked to file their respective statements and the statements had been filed. In the statement filed by the State, which is disclosed in pages 16 to 19 of the revision memorandum, it is stated by the State that a sum of ₹89,902.76/- has been paid in excess than what is due to the claimant. However, the statement filed by the claimant shows that he is yet to get a sum of ₹7,767.85/- with interest thereon.

4. The grievance of the State is that without adjudicating whether any amount is further due to the claimant and without considering the statements filed by the State and the claimant, an order of attachment has simply been issued which is not justifiable. The learned Government Pleader contended that unless it is shown that more amounts are due to the claimant, an attachment could not have been ordered.

5. All that the order shows is that "E.A. No.215/02 allowed. For report on attachment to 02.12.2002".

Obviously, E.A.No.215/02 must be for attachment of the property. Necessarily when the State has filed a statement showing that they have paid excess amount and if the claimant has a case that he is yet to receive the amount, it is necessary for the court to determine whether actually any further amount is due to the claimant. Nothing is seen considered in the order impugned before this Court. Before ordering attachment, it was absolutely necessary to come to the conclusion that the statement filed by the State was not correct and that the statement filed by the claimant was the proper one and more amount was due. No such exercise has been undertaken by the court below.

For the above reasons, this revision is allowed, the impugned order is set aside and the matter is remanded to the Execution Court for fresh consideration in accordance with law and in the light of what has been stated above. The parties shall appear before the Execution Court on 05.10.2015. The Execution Court may make every

endeavour to dispose of the matter as expeditiously as possible, at any rate, within a period of three months from the date of appearance of the parties.

Sd/-
P.BHAVADASAN
JUDGE

ds

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P.A. to Judge