

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

CRP.No.369 of 2014

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(Against the order dated 29.08.13 in E.P.64/07 in LAR No.11/2000 of the  
Sub Court, Manjeri)

REVISION PETITIONER/RESPONDENT:

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THE DISTRICT COLLECTOR  
MALAPPURAM.

BY GOVERNMENT PLEADER SRI.REJI JOSEPH.

RESPONDENTS/PETITIONERS:

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1. VAZHAPPILLI ANTHONI (DIED)  
BY LEGAL HEIRS, RESIDING AT ALOOR VILLAGE  
PANNISSERI DESOM, THALAPPILLI TALUK,  
KONAM MOOCHI POST, PIN-680 504.
  2. K.V.MERI  
RESIDING AT ALOOR VILLAGE, PANNISSERI DESOM  
THALAPPILLI TALUK, KONAM MOOCHI POST, PIN-680 504.
  3. V.A.JOB  
RESIDING AT ALOOR VILLAGE, PANNISSERI DESOM  
THALAPPILLI TALUK, KONAM MOOCHI POST, PIN-680 504.
  4. V.A.MARIYAMMA  
RESIDING AT ALOOR VILLAGE, PANNISSERI DESOM  
THALAPPILLI TALUK, KONAM MOOCHI POST, PIN-680 504.
  5. V.A.ANI  
RESIDING AT ALOOR VILLAGE, PANNISSERI DESOM  
THALAPPILLI TALUK, KONAM MOOCHI POST, PIN-680 504.
  6. V.A.VARGHESE  
RESIDING AT ALOOR VILLAGE, PANNISSERI DESOM  
THALAPPILLI TALUK, KONAM MOOCHI POST, PIN-680 504.

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7. V.A.JOSE

RESIDING AT ALOOR VILLAGE, PANNISSERI DESOM  
THALAPPILLI TALUK, KOONAM MOOCHI POST, PIN-680 504.

R2-R7 BY ADV. SRI.R.RAJESH KORMATH

R2-R7 BY ADV. SRI.M.VIJAYAKUMARAN

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION  
ON 25-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**P.BHAVADASAN, J.**

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**Civil Revision Petition No.369 OF 2014**  
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**Dated this the 25<sup>th</sup> day of March, 2015.**

**O R D E R**

This Civil Revision Petition filed by the State is directed against the recording of satisfaction of decree on deposit of the amount which is evident by Annexure V order produced by the respondents in this revision petition.

2. The facts absolutely necessary for the disposal of the revision petition are as follows.

It is not in dispute that the property belonging to the respondents was acquired as per Section 4(1) notification which was issued on 08.04.1997 and an award was passed on 01.09.1999. It may be noticed at once, that possession has been taken as early as on 10.09.1995. Dissatisfied with the award passed by the Land Acquisition Officer, reference was sought for by the respondents herein under Section 18 of the Land Acquisition Act and the reference was numbered as LAR No.11/2000. Copy of order in the said proceedings is produced

as Annexure I. The relevant portions as far as the respondents are concerned are as follows.

- "2) The claimant in L.A.R.11/2000 is entitled to get an enhanced compensation at the rate of Rs.26,400/- per cent in respect of 0.1396 hectares of land in R.S.20/8 and Rs.23,760/- per cent in respect of 0.0265 hectares of land in R.S.19/7 and 0.0043 hectares of land in R.S.19/10 acquired from him with all other statutory benefits".
- 3) .....
- 4) .....
- 5) .....
- 6) .....
- 7) The claimants in each references are entitled to get an amount calculated at the rate of 12% increase in the market value of the property acquired from them for a period from 8-4-1997 till 1-9-1999.
- 8) .....
- 9) The claimants in each references are entitled to get interest at the rate of 9% per annum on the excess amount awarded by the court for period of one year from 1-9-1997 and thereafter at the rate of 15% per annum till payment or deposit of the amount".

3. The appeal preferred by the State against the enhanced amount so granted by the Land Acquisition court was dismissed by this Court. Thereafter execution proceedings were taken up

by the respondents.

4. It is seen that the State filed a petition under Section 152 of Code of Civil Procedure to amend the judgment and decree incorporating that the respondents are not entitled to interest from 01.09.1997 but only from 01.09.1999. The court before which the said application was filed dismissed it holding that there is no basis for the claim since the respondents are actually entitled to interest from 08.04.1997 but interest was granted only from 01.09.1997. That order has become final. Subsequently, the very same contentions regarding interest were re-agitated by the State before the court below as could be seen from Annexure IV order produced by the respondents.

5. At this point of time, it will be useful to refer to Section 34 of the Land Acquisition Act which reads as follows:

“34. Payment of interest.-When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of nine per centum per annum from the time of so taking possession until it shall have been so paid or deposited:

Provided that if such compensation or any part

thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry”.

6. As already noticed, possession was taken on 10.09.1995 and award was passed on 01.09.1999 even though Section 4(1) notification was on 08.04.1997. Going by the records, it is very clear that possession has been taken much earlier to the notification. The respondents herein are therefore entitled to 9% interest for the first one year and thereafter 15% interest as contemplated under Section 34. In fact, court below have noticed that even though the claimants are entitled to 9% interest from 08.04.1997, interest was granted only from 01.09.1997.

7. In both Annexures III and IV orders produced by the respondents before this Court along with their counter affidavit, reasons for rejecting the State's contentions have been elaborately stated. The State is unable to show any error in the

conclusions drawn by the court below in the respective orders. Further State had submitted to computation of compensation amount available to the respondents herein as determined by the court below and had deposited the entire amount. That amount was withdrawn and the decree was recorded as satisfied. It is thereafter that the revision petition has been filed.

There is no merit in the Civil Revision Petition. It is accordingly dismissed.

Sd/-

**P.BHAVADASAN  
JUDGE**

smp

// True Copy //

P.A. to Judge.