

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.R. RAMACHANDRA MENON

&

THE HONOURABLE MR. JUSTICE SHAJI P. CHALY

TUESDAY, THE 1ST DAY OF DECEMBER 2015/10TH AGRAHAYANA, 1937

L.A.App..No. 468 of 2015 ()

AGAINST THE JUDGMENT AND DECREE DATED 20.09.2012 IN LAR 407/2009 of ADDL.SUB COURT, THALASSERY.

APPELLANTS/CLAIMANT:

1. VAZHAYIL ACHUTHAN,
PALAZHI HOUSE, P.O.NIRMALAGIRI,
KUTHUPARAMBA,
KANNUR DISTRICT.
2. PUNCHAKKARA VALSAN,
PALAZHI HOUSE, P.O.NIRMALAGIRI,
KUTHUPARAMBA,
KANNUR DISTRICT.

BY ADVS.SRI.C.P.PEETHAMBARAN
SMT.MINI.V.A.

RESPONDENT(S)/RESPONDENTS:

1. THE SPECIAL TAHSILDAR (L.A.),
THALASSERY- 670 101.
2. THE SECRETARY,
KUTHUPARAMBA MUNICIPALITY,
KANNUR DISTRICT -670 643.
3. GOVERNMENT OF KERALA,
REPRESENTED BY THE DISTRICT COLLECTOR,
KANNUR- 670 001.

R1 & R3 BY SENIOR GOVERNMENT PLEADER, SRI. L. ALOYSIUS THOMAS
R2 BY ADV. SMT.BINDUMOL JOSEPH
R2 BY ADV. SRI.B.S.SYAMANTHAK

THIS LAND ACQUISITION APPEAL HAVING COME UP FOR ADMISSION ON 01-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.T.O.

**P.R. RAMACHANDRA MENON
&
SHAJI P. CHALY, JJ.**

L.A.A. No.468 of 2015

Dated this the 1st day of December, 2015

JUDGMENT

P.R. Ramachandra Menon, J.

C.M. Appln. No.484 of 2015

This is a petition to condone the delay of 905 days in filing the appeal. The grievance is regarding inadequacy of the compensation awarded. The reasons stated in the affidavit in support of the petition are given in paragraph 3, in the following terms:

"3. It is most humbly submitted before this Hon'ble Court that we wanted to challenge the compensation amount by claiming actual market value prevalent at the time of notification, which is nearly Rs.4 lakhs per cent. To file an appeal huge amount of court fee is needed and we were trying to raise the money. Actually we could not raise the money for filing appeal and in the meanwhile, it is learnt that in L.A.R No.456/2009, the very same Court had fixed the land value as Rs.40,250/- per cent in its judgment dated 27.2.2015. Our land is also lying adjacent and similar in the above case and therefore, we collected information from the concerned person and now filing

this appeal confining the enhancement to the award in LAR No.456/2009. Hence there is a delay of 905 days in filing the appeal. By the belated filing of the appeal, we are not benefited and I also undertakes that we will not claim interest for the belated period to prove our bonafides. There is no wilful laches or negligence on our part. Hence, if the delay of 905 days is not condoned by this Hon'ble Court, we will be put to untold loss and hardships."

2. A counter affidavit has been filed on behalf of the 1st

Respondent; paragraph 2 of which reads as follows:

"2. The above IA is filed to condone the delay of 905 days in filing the above appeal. The impugned judgment was pronounced on 20.09.2012 and the copy was applied only on 22.01.2013. There is a delay of around 4 months in applying the certified copy itself which is not explained and the copy was made ready on 12.04.2013 on the same day itself it was received by the counsel for appellant. The appeal was filed only on 31.08.2015. Absolutely no reason is stated for the inordinate delay of 905 days in filing the above appeal. The only reason stated is that huge amount was required as Court fee. But it can be gathered from affidavit filed along with the petition to condone the delay that the thought for filing appeal came only when similarly placed person had filed appeals and got enhancement in land value. It is after getting the said information the present appeal was preferred with the petition to condone the inordinate delay of more than

905 days. Since no sufficient explanation for the inordinate delay is stated, the above petition deserves no merit and hence the same may be dismissed in limine."

3. The 2nd Respondent/Requisitioning Authority has also filed a counter affidavit and their version as given in paragraphs 2 and 3 is in the following terms:

"2. The above the Land Acquisition Appeal is filed against the judgment and decree dated 20.09.2012 in LAR No.407/2009 on the file of the Subordinate Judges Court, Thalassery. The above application is filed before this hon'ble Court for condoning the delay of 905 days in filing the appeal. The explanation tendered by the appellants will show that they came with the appeal only after passing of award in LAR No.456/2009. The explanations forwarded by the appellant/petitioner is not at all genuine and valid reason for condoning the delay. It clearly manifests the lack of bonafides and experimental nature in filing the appeal. The judgment/award in LAR 456/2009 cannot be a cause of action for filing appeal in LAR No.407/2009.

3. It is respectfully submitted that the Respondent Municipality has filed LAA No.375/2014 challenging the award in LAR No.407/2009."

4. After hearing both the sides, this Court finds that absolutely no tenable reason has been given by the appellants

to condone the delay in filing the appeal. The so called explanation offered on the part of the appellants is not liable to be termed as a 'reason', much less anything satisfactory. Interference is declined. The application to condone the delay is dismissed.

As a natural consequence, the appeal is also dismissed.

Sd/-

**P.R. RAMACHANDRA MENON
JUDGE**

Sd/-

**SHAJI P. CHALY
JUDGE**

//true copy//

P.S. to Judge

St/-

01.12.2015