

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON
&
THE HONOURABLE MR.JUSTICE K.HARILAL

TUESDAY, THE 20TH DAY OF OCTOBER 2015/28TH ASWINA, 1937

LA.App..No. 915 of 2014 (C)

LAR 12/2003 of III ADDL.SUB COURT, ERNAKULAM DATED 28-02-2004

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APPELLANT/CLAIMANT:

V.K.RAMACHANDRAN
PANDARAPARAMBIL, MULAVUKAD, MULAVUKADU P.O.

BY ADV. SRI. P.MARTIN JOSE

RESPONDENT/RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY
THE DISTRICT COLLECTOR, ERNAKULAM-682030.

2. GOSHREE ISLANDS DEVELOPMENT AUTHORITY,
ERNAKULAM-682011.

R1 BY SR. GOVERNMENT PLEADER SRI. ALOSIOUS THOMAS

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD
ON 20-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

OKB

P.R. RAMACHANDRA MENON & K. HARILAL, JJ.

L.A.A.No.915 of 2014 & C.M.Appl.No.1068 of 2014

Dated this the 20th day of October, 2015.

JUDGMENT

Ramachandra Menon, J.

This is a petition to condone the delay of 3726 days (more than 10 years) in filing the appeal. Notice was ordered in the said application on 8.1.2015 to the 2nd respondent. No process charges have been remitted till date and hence it is shown in the defect list.

2. Heard the learned counsel for the appellant as well as the learned Government Pleader.

3. A short time is prayed for, to cure the defect. We do not find any reason to grant extension of time and we have gone through the merits of the case explaining the inordinate delay of more than ten years. The version of the appellant, as it appears from paragraphs 3 and 4 of the affidavit in support of the application, is in the following terms:-

“3. The judgment was passed on 28.2.2004 and application for certified copy was filed on 8.3.2004. Certified copy of the judgment was received on 19.7.2004. Due to the change of my address and for want of telephone connection, my counsel could

not contact me in time. After a lapse of several months, I was informed by one of my neighbours when I met at a function that a letter was received by him from his Advocate at Ernakulam regarding his acquisition case. However, when I met my Advocate, he informed that the impugned judgment was passed. Dissatisfied by the enhancement made by the court below, I instructed my Advocate to file appeal.

4. After acquisition of my property, I was residing with my wife in separate rented house far away from the acquired property. We are issueless and nobody to look after the case. We were totally upset and not aware regarding the status of the case. All the evictees were residing in different areas and they joined together in a funeral function of one of the evictees, viz., Roy, who was pursuing the acquisition proceedings. The people who attended the funeral function had a talk about the acquisition cases and made mention of Advocate's intimation regarding passing of the award. Then they thought of preferring appeals for which they decided to muster money towards court fee and other expenses. Above all, they discussed about this Hon'ble Court's judgment in LAA No.840/2005 by which compensation amount has been increased than the one passed by the Reference Court."

The only contention raised by the appellant is that the judgment was passed by the court below on 28.2.2004; application for certified copy was filed on 8.3.2004 and the same was received on 9.7.2004. But, because of the change of address and for want of telephone connection the counsel could not contact the appellant. It was much later that the appellant came to know about the final verdict upon which he

instructed the counsel to file an appeal and thus the appeal. There is absolutely no case for the appellant that he had taken any step to contact the lawyer for nearly ten years with regard to the fate of the proceedings. The litigant has got a duty to contact the lawyer and ascertain the proceedings with regard to relief sought for. There is callous inaction on the part of the appellant in this regard and admitted fact does not require to be proved. There is absolutely no explanation for the delay, but for the vague submission as contained in paragraphs 3 and 4, which cannot be treated as a reason; much less any satisfactory explanation. We do not find any merit in the application seeking to condone the delay of more than ten years. Interference is declined and the application is dismissed. As a natural consequence, the appeal as well.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE

Sd/-

K. HARILAL, JUDGE

okb.

// True copy //

P.A. to Judge