

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE SMT. JUSTICE P.V.ASHA

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

LA.App..No. 1065 of 2010 ()

AGAINST THE JUDGMENT and IN LAR 152/2008 ON THE FILE OF THE PRINCIPAL
SUB COURT,NORTH PARAVUR DATED 22-12-2009

APPELLANT/RESPONDENT:

STATE OF KERALA, REP. BY DIST.COLLECTOR
DISTRICT COLLECTOR, ERNAKULAM.

BY SR. GOVERNMENT PLEADER SRI.R.PADMARAJ.

RESPONDENTS/CLAIMANTS:

JOSE, S/O. THOMAS - [DIED]
KANAPPILLY, KOONAMMAVU P.O.,
VARAPUZHA-683 518.

* ADDL.R2 TO R7 IMPEADED

ADDL.R2 JAYA, AGED 71 YEARS, W/O. LATE JOSE THOMAS,
KANAPPILLY HOUSE, 208/IV, THOTTAKKATTUKARA,
ALUVA -683 108.

ADDL.R3 THOMAS K.J., AGED 48 YEARS, S/O. LATE JOSE THOMAS,
KANAPPILLY HOUSE, KOONAMMAVU P.O., PIN- 683518.

ADDL.R4 GEORGE K.J., AGED 47 YEARS, S/O.LATE JOSE THOMAS,
KANAPPILLY HOUSE, 208/IV, THOTTAKKATTUKARA,
ALUVA -683108 (REPRESENTED BY HIS POWER OF ATTORNEY
MANOJ K. JOSE, 7TH ADDITIONAL CLAIMANT).

ADDL.R5 MATHEW K. J. AGED 44 YEARS, S/O. LATE JOSE THOMAS,
KANAPPILLY HOUSE, 208/IV, THOTTAKKATTUKARA, ALUVA - 683108.

ADDL.R6 ASHA KIM. AGED 37 YEARS, D/O. LATE JOSE THOMAS,
W/O. KIM PADAMADAN, PADAMADAN HOUSE, LISIE HOSPITAL ROAD,
COCHIN - 682018.

ADDL.R7 MANOJ K. JOSE, AGED 34 YEARS, S/O. LATE JOSE THOMAS,
KANAPPILLY HOUSE, 208/IV, THOTTAKKATTUKARA,
ALUVA - 683108.

(LEGAL HEAIRS OF DECEASED SOLE RESPONDENT ARE IMPEADED AS
ADDITIONAL R2 TO R7 VIDE ORDER DATED 24.10.2014 IN I.A. 1551/14).

BY ADV. SRI. A.V.XAVIER

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON
27-02-2015, ALONG WITH LAA. 1310/2010, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

AL/-

PIUS C.KURIAKOSE & K. HARILAL, JJ.

L.A.A.No. 1065 OF 2010

Dated this the 19th day of November, 2011

JUDGMENT

Pius C.Kuriakose, J.

In this appeal, the Government has filed I.A. Nos. 3553/2011, 3554/2011 and C.M.Appln. No.1475/2011 for setting aside abatement, impleadment of the legal heirs of the deceased first respondent and also for condoning the delay caused in the matter of filing of impleadment application. However, on going through the affidavit, which is filed in support of these applications, it is seen that the sole claimant in the LAR Sri.Jose had already passed away before the learned Subordinate Judge answered the reference enhancing the compensation payable for his properties which were under acquisition.

2. We are convinced that the impugned judgment and decree were passed by the learned Sub Judge in favour of Sri.Jose, a dead person, without noticing the death. Any judgment and decree passed in favour of a dead person is to be

treated as nonest.

Hence, we set aside the judgment and decree and remand L.A.R. No.152/2008 back to the Principal Sub Court North Paravur. The appellant/Government is directed to furnish to the learned Sub Judge names and addresses of the legal heirs of the deceased Jose so that the learned Sub Judge can initiate proceedings in the LAR afresh with notice to those legal heirs.

PIUS C.KURIAKOSE,JUDGE

K. HARILAL, JUDGE.

dpk

Judgment dated 19/11/2011 in L.A.A. No.1065/2010 is recalled vide order dated 28/3/2012 in R.P.No.303/2012 in L.A.A. No.1065/2010.

Sd/-

Registrar(Judicial)