

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

OP(C).No. 483 of 2015 (O)

AGAINST THE ORDER DTD. 15.12.14 IN I.A.1206/14 IN LAR 1/2014 of SUB
COURT,ALAPPUZHA DATED 15-12-2014

PETITIONER/PETITIONER/CLAIMANT:

BIJU BABU PUNNOORAN,
S/O BABU PUNNOORAN, PUNNOORANS, ZACHARIA BAZAR,
ALAPPUZHA, REP. BY HIS POWER OF ATTORNEY HOLDER
FATHER BABU J. PUNNOORAN.

BY ADVS.SRI.H.HAMZA ROWTHER
SRI.V.K.PEERMOHAMED KHAN

RESPONDENT/RESPONDENT/RESPONDENT:

STATE OF KERALA
REP. BY SUB COLLECTOR ALAPPUZHA
NOW REP. BY DISTRICT COLLECTOR
ALAPPUZHA, ALAPPUZHA-688001.

BY GOVT. PLEADER SMT. MADHUBEN.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON
24-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP(C).No. 483 of 2015 (O)

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT P1: TRUE COPY OF THE AWARD NOTICE ISSUED BY THE
RESPONDENT DTD.2.1.14.

EXHIBIT P2: TRUE COPY OF THE NOTICE RECEIVED BY THE PETITIONER IN
LAR NO.1/2014.

EXHIBIT P3: TRUE COPY OF THE STATEMENT FILED BY THE PETITIONER IN
LAR NO.1/2014.

EXHIBIT P4: TRUE COPY OF THE APPLICATION FOR JOINT TRIAL FILED IN
LAR NO:3/2014 DTD.20.10.14.

EXHIBIT P5: TRUE COPY OF THE APPLICATION FILED FOR APPOINTING
ADVOCATE COMMISSIONER DTD.20.10.14.

EXHIBIT P6: TRUE COPY OF THE OBJECTION FILED BY THE RESPONDENT
DTD.3.12.14.

EXHIBIT P7: TRUE COPY OF THE ORDER DATED 15.12.2014 IN
I.A.NO.1206/2014 IN LAR NO.1/2014 PASSED BY THE HON'BLE
SUB COURT, ALAPPUZHA.

RESPONDENT'S EXHIBITS: NIL

// True Copy //

P.A. To Judge.

smp

P.BHAVADASAN, J.

Original Petition (Civil) No.483 OF 2015

Dated this the 24th day of February, 2015.

J U D G M E N T

In a land acquisition proceeding, at the time of passing of Award, the District Collector found that none of the parties before him was able to prove title to 1.70 Ares of land acquired by the State. He therefore referred the matter to the court under Section 31(2) of the Land Acquisition Act.

2. Before the reference court, petitioner moved an application for issuance of a commission. The court below dismissed the application finding that there is no necessity for issuance of a commission since the issue relates to title of the property in respect of which an Award has been passed. The court below was of the opinion that a Commissioner cannot decide the title.

3. Learned counsel appearing for the petitioner assailing the above finding pointed out that no harm is caused by the appointment of a Commissioner.

4. The question is not whether any harm is caused but whether it is necessary to issue a commission. The issue regarding title to 1.70 Ares of land in respect of which an Award was passed was referred to court and it is seen stated that nobody was able to prove title.

5. Since the issue is one regarding title, if the petitioner is able to prove his title on the basis of documents or otherwise, he has to succeed. Issuance of a commission can be of no help for the said purpose.

6. The court below was therefore perfectly justified in dismissing the application filed by the petitioner for issuance of a commission.

The original petition is without merits and it is accordingly dismissed.

Sd/-

P.BHAVADASAN
JUDGE

smp