

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 20TH DAY OF JULY 2015/29TH ASHADHA, 1937

OP(C).No. 134 of 2014 (O)

(EP NO.527/2010 IN LAR 66/1990 OF SUB COURT, THRISSUR)

PETITIONER:

**BHARAT SANCHAR NIGAM LIMITED,
REPRESENTED BY THE GENERAL MANAGER,
BSNL, THRISSUR.**

BY ADV. SRI.MATHEWS K.PHILIP,SC, BSNL

RESPONDENT(S):

- 1. V.J GEORGE,
CHAMMANAM HOUSE, MISSION QUARTERS, KIZHAKKE KOTTA
THRISSUR VILLAGE, NOW RESIDING AT CHURCH STREET
FORT KOCHI-682 006.**
- 2. C.J.ABRAHAM
CHAMMANAM HOUSE, RESIDING AT AVENUE ROAD
CHIYYARAM VILLAGE, THRISSUR TALUK-680 001.**
- 3. C.J.JOHNSON
CHAMMANAM HOUSE, RESIDING AT SEMETHERI ROAD
MISSION QUARTERS, CHEMBUKAVU VILLAGE,
THRISSUR TALUK-680 001.**
- 4. LEENA JOHNSON,
D/O. LATE M.A.VARGHESE, MULLANGATT HOUSE,
VENNALA,
KOCHI-28.**
- 5. ANITHA JOSE,
W/O. M.T.JOSE, MANJALI HOUSE, KIZHAKUMPATTUKARA,
THRISSUR-680 001.**
- 6. SPECIAL TAHSILDAR (L.A.)
THRISSUR-680 001.**
- 7. DISTRICT COLLECTOR
THRISSUR-680 001.
R1 & R3 BY ADV. SRI.T.R.RAVI
R6 & R7 BY GOVERNMENT PLEADER SRI. REJI JOSEPH**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD
ON 20-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

vmr.

APPENDIX

PETITIONER(S)' EXHIBITS

P1 : TRUE COPY OF THE JUDGMENT IN LAR 66/1990 ON THE FILE OF SUB COURT, THRISSUR, DTD.6.2.1996.

P2 :TRUE COPY OF THE JUDGMENT IN LAA 1163/97 DTD.25.3.2003.

P3 :TRUE COPY OF THE JUDGMENT IN LAR NO.66/90 ON THE FILE OF SUB COURT, THRISSUR, DTD.28.9.2004.

P4 :TRUE COPY OF THE JUDGMENT IN LAA 28/05 AND CROSS OBJECTION 63/05 DTD.13.10.2005.

P5 : TRUE COPY OF THE EA 247/2006 IN EP 37/2005 IN LAR 66/1990.

P6 : TRUE COPY OF THE JUDGMENT IN LAA 28/05 AND CROSS OBJECTION 63/05 DTD.6.7.2009.

P7 : TRUE COPY OF THE IA 562/09 IN LAR 66/90 ON THE FILE OF SUB COURT, THRISSUR.

P8 : TRUE COPY OF THE OBJECTION IN CHEQUE APPLICATION 194/2009 IN LAR 66/1990 FILED BY THE PETITIONER.

P9 : TRUE COPY OF THE EP NO.527/2010 IN LAR 66/90 ON THE FILE OF SUB COURT, THRISSUR.

P10: TRUE COPY OF THE COUNTER FILED BY PETITIONER IN EP 527/2010 IN LAR 66/1990.

P11: TRUE COPY OF THE ORDER IN EP 527/2010 IN LAR 66/90 ON TEH FILE OF SUB COURT, THRISSUR.

P12: TRUE COPY OF THE EA 2280/12 IN EP 527/10 IN LAR 66/90 ON THE FILE OF SUB COURT, THRISSUR.

P13: TRUE COPY OF THE EA 44/12 IN EP 527/10 IN LAR 66/90 ON THE FILE OF SUB COURT, THRISSUR.

P14: TRUE COPY OF THE EA 183/13 IN EP 527/10 IN LAR 66/90 ON THE FILE OF SUB COURT, THRISSUR.

P15:TRUE COPY OF THE OBJECTION TO EXT.P12 FILED BY THE DECREE HOLDER.

P16: TRUE COPY OF THE ORDER EA 2280/12 IN EP 527/10 IN LAR 66/90 ON THE FILE OF SUB COURT, THRISSUR.

P17: TRUE COPY OF THE LETTER ISSUED BY THE PETITIONER TO THE DISTRICT COLLECTOR, THRISSUR.

P18: COPY OF THE STATEMENT OF ACCOUNTS FILED BY THE COUNSEL FOR THE PETITIONER IN THE SUB COURT, THRISSUR.

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.S.TO JUDGE

vmr.

B.KEMAL PASHA, J.

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O.P.(C).No.134 of 2014

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Dated this the 20th day of July, 2015

J U D G M E N T

The Requisitioning Authority in a Land Acquisition Reference is the petitioner herein. According to the petitioner, a proper quantification of the amount in the E.P. is required in order to arrive at the correct balance amount, if any, to be paid. Exhibits P11 and P16 orders passed by the court below are under challenge. Through Exhibit P11, the court below has quantified the amount to ₹15,80,074/- and directed the respondents to deposit the amount on 15.01.2013. Through Exhibit P16, Exhibit P11 order was clarified by stating that the direction to pay the amount is as against the 1st respondent alone and not as against the 2nd respondent. Whatever it is, ultimately, if it is found that the 1st respondent is liable to pay any amount, the liability will squarely fall on the shoulders of the 2nd respondent being

the Requisitioning Authority.

2. Through Exhibit P13 I.A., the petitioner has requested the court below to call for the records pertaining to I.A.No.5621 of 2009. According to the petitioner, earlier E.P. was closed by recording full satisfaction and that was the reason why the said records were to be called for.

3. Heard the learned counsel for the petitioner, the learned counsel for respondents 1 to 5 and the learned Government Pleader for respondents 6 and 7.

4. Even though a calculation statement was filed before the court below, the court below has passed Exhibit P11 order without any discussion. The contentions resorted to by the petitioner were not adverted to or addressed by the court below in passing Exhibit P11 as well as Exhibit P16. Therefore, the matter requires reconsideration. The court below has to address the contentions resorted to by the parties and pass a speaking order in the matter, for which Exhibits P11 and P16 have to be set aside.

In the result, this Original Petition (Civil) is allowed.

Exhibits P11 and P16 orders stand set aside. The matter is remitted to the court below for fresh disposal in accordance with law, after hearing both the sides and considering the contentions of either side. Both sides can file fresh calculation statements before the court below.

Sd/-

B.KEMAL PASHA
JUDGE

DSV/20/7/15