

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

MONDAY, THE 14TH DAY OF SEPTEMBER 2015/23RD BHADRA, 1937

OP(C).No. 2094 of 2015 (O)

AGAINST THE ORDER DTD.10.8.2015 IN EA NO.1753 OF 2014 IN EP
NO.39/2006 IN LAR 167/1988 of II ADDL.SUB COURT,THRISSUR

PETITIONER:

THRISSUR CORPORATION, THRISSUR, REPRESENTED BY ITS SECRETARY

BY ADVS.SRI.K.P.VIJAYAN
SRI.V.N.HARIDAS

RESPONDENTS:

REPLACED

1. THRESSIA
W/O. LATE K.T. JOSE, RESIDING AT KONIKKARA HOUSE
KURIACHIRA DESOM, CHIYYARAM VILLAGE, THRISSUR TALUK-680 026
2. K.T. THARU,
S/O. LATE K.T. JOSE, RESIDING AT KONIKKARA HOUSE
KURIACHIRA DESOM, CHIYYARAM VILLAGE, THRISSUR TALUK-680 026
3. K.J. VARGHESE,
S/O.LATE K.T. JOSE, RESIDING AT KONIKKARA HOUSE
KURIACHIRA DESOM, CHIYYARAM VILLAGE, THRISSUR TALUK-680 026
4. K.J. JOJU,
S/O. LATE K.T. JOSE, RESIDING AT KONIKKARA HOUSE
KURIACHIRA DESOM, CHIYYARAM VILLAGE, THRISSUR TALUK-680 026
5. K.J. PAULY,
S/O. LATE K.T. JOSE, RESIDING AT KONIKKARA HOUSE
KURIACHIRA DESOM, CHIYYARAM VILLAGE, THRISSUR TALUK-680 026
6. THE SPECIAL TAHSILDAR (LA),
THRISSUR CORPORATION, THRISSUR.
7. THE DISTRICT COLLECTOR,
THRISSUR-680 584A

RESPONDENTS 1 TO 8

1. MATHIRI, W/O.LATE E.P.GEORGE, ELUVATHINGAL HOUSE, M.T.NAGAR,
KACHERY PO, ANCHERY, THRISSUR-680 006
- 2.CHERIAN GEORGE, S/O.LATE E.P.GEORGE,
ELUVATHINGAL HOUSE, M.T.NAGAR,
KACHERY PO, ANCHERY, THRISSUR-680 006

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3. THABITHA GEORGE, D/O.LATE E.P.GEORGE,

ELUVATHINGAL HOUSE, M.T.NAGAR,
KACHERY PO, ANCHERY, THRISSUR-680 006

4.THIMOTHY GEORGE, S/O.LATE E.P.GEORGE,
ELUVATHINGAL HOUSE, M.T.NAGAR,
KACHERY PO, ANCHERY, THRISSUR-680 006

5.ROSHY E.GEORGE, D/O.LATE E.P.GEORGE,
ELUVATHINGAL HOUSE, M.T.NAGAR,
KACHERY PO, ANCHERY, THRISSUR-680 006

6.JOHN E.GEORGE, S/O.LATE E.P.GEORGE,
ELUVATHINGAL HOUSE, M.T.NAGAR,
KACHERY PO, ANCHERY, THRISSUR-680 006

7. THE SPECIAL TAHSILDAR (LA),
THRISSUR CORPORATION,
THRISSUR.

8.THE DISTRICT COLLECTOR,
THRISSUR.

RESPONDENTS 1 TO 7 IN OP(C) ARE REPLACED WITH RESPONDENTS 1 TO 8 AS
PER ORDER DTD.14.9.2015 IN I.A.NO.12911 OF 2015.

R1 TO R6 BY ADV.SRI.P.B.KRISHNAN
R7 & R8 BY SR.GOVERNMENT PLEADER R.M.ABDUL KHADER

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 14-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT-P1-TRUE COPY OF THE COMMON JUDGMENT IN L.A.A 407/2006 AND
CROSS OBJECTION NO. 82/2006

EXHIBIT-P2-TRUE COPY F THE DECREE DATED 06/02/2015 IN L.A.A 407/2006

EXHIBIT-P3-TRUE COPY OF THE LETTER DATED 09/12/2014 ISSUED BY THE
SECRETARY TO THE PETITIONER CORPORATION TO THE DISTRICT COLLECTOR.

EXHIBIT-P4-TRUE COPY OF THE STATEMENT DATED 13/03/2015 ISSUED BY THE
6TH RESPONDENT.

EXHIBIT-P5-TRUE COPY OF THE REVISED STATEMENT PREPARED BY THE
DISTRICT COLLECTOR DATED 22/07/2015.

EXHIBIT-P6-TRUE COPY OF THE LETTER DATED 06/08/2015 ISSUED BY THE
SECRETARY TO THE PETITIONER CORPORATION TO THE 7TH RESPONDENT

EXHIBIT-P7-TRUE COPY OF THE E.A 1753/2014 IN E.P 39/2006 IN L.A.R
167/1988 BEFORE THE SUB COURT, THRISSUR DATED 30/11/2014 FILED BY
RESPONDENTS 1 TO 5

RESPONDENT(S) ' EXHIBITS : NIL

/TRUE COPY/

P.S.TO JUDGE

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K.ABRAHAM MATHEW J.

O.P.(C)No.2094 of 2015

Dated this the 14th day of September, 2015

JUDGMENT

The State acquired certain properties for the purpose of petitioner Corporation. In LAR 167 of 1988 the court awarded enhanced compensation. There were further enhancement. In E.P.No.39 of 2006 the claimants prayed for realisation of the enhanced compensation. It is submitted that the petitioner Corporation is shown as a judgment debtor and its property has been attached.

2. Heard the learned counsel for the petitioner and party respondents and the learned Government Pleader.

3. It is now well settled that the only judgment debtor in a reference case under Section 18 of the Land Acquisition Act is the State. The court has no authority to attach the property of the beneficiary. The attachment of the properties of the petitioner Corporation is illegal. Only the State is liable to pay the decree debt. Ext P5 is a revised statement filed by the Deputy Collector. The claimants submitted that they are entitled to some more amount and they have filed a statement. It is sufficient for this court to clarify that the State is liable to deposit atleast the admitted amount. The proceedings against the petitioner Corporation is illegal and invalid.

In the result, this Original Petition is disposed of with a direction to the State to deposit the amount admitted in Ext P5 statement. The claimants may prove that they are entitled to more amount, the executing court shall take a decision on it. But this is not a reason for the State not to deposit the admitted amount. The amount shall be deposited within three months failing which the claimants are allowed to proceed against the State. The proceedings against the petitioner are invalid.

Sd/-
K.ABRAHAM MATHEW
JUDGE

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/True copy/

P.S.to Judge