

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE**

MONDAY, THE 8TH DAY OF JUNE 2015/18TH JYASHTA, 1937

WA.No. 146 of 2010

AGAINST THE JUDGMENT IN W.P.(C).NO.23472 OF 2009, DATED 06-11-2009

APPELLANT(S)/PETITIONER :

**KIZHAKKE PURAYIL KUNHIKANNAN,
S/O.KUNHAPPU, KIZHAKKE PURAYIL, KUNHIMANGALAM VILLAGE,
EDATT POST-670 327, PAYYANNUR, KANNUR DISTRICT.**

**BY ADVS.SRI.O.RAMACHANDRAN NAMBIAR
SRI.GEEN T.MATHEW**

RESPONDENT(S)/RESPONDENT :

**THE SPECIAL TAHSILDAR (L.A),
NATIONAL HIGHWAY, KANNUR.**

BY SR.GOVERNMENT PLEADER SRI.P.IDAVIS

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION
ON 08-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

**ASHOK BHUSHAN, CJ
& A.M.SHAFFIQUE, J.**

W.A.No.146 of 2010

Dated this the 8th day of June 2015

J U D G M E N T

Ashok Bhushan, CJ

Heard learned counsel for the appellants.

2. This writ petition has been filed against the judgment dated 06/11/2009 in W.P.C.No.23472/2009. The above writ petition was filed by the petitioner to bring forth the following reliefs:

“a. to issue a writ of certiorari or such other writ, direction or order quashing Exhibit P2 and the order endorsed on the back side of Exhibit P3.

b. to call for the records relating to Exhibit P2 and P3.

c. to direct the respondent to refer Exhibit P3 petition under Section 18 of the Land Acquisition Act, 1894 to the concerned court having jurisdiction to determine the compensation.

d. to award cost of this writ petition from the respondent.”

3. Ext.P2 which was sought to be quashed was an order passed on 23/01/2004 rejecting the application filed by the petitioner under Section 28A of the Land acquisition Act (hereinafter referred to as 'the LA Act') with the endorsement that the application cannot be entertained. From Ext.P1, it is clear that the petitioner had filed an application under Section 18 of the Land Acquisition Act which was rejected on 25/05/1989. Petitioner has also sought for a direction to refer Ext.P3 application under Section 18 of the LA Act before the concerned court. Since application under Section 18 has already been rejected, there is no occasion to make any reference of Section 18 application. Writ petition was filed in the year 2009; whereas Section 18 Application has already been rejected in the year 1989, i.e. two decades before the writ petition was moved. The learned Single Judge, noticing the aforesaid fact, came to the conclusion that this is not a fit case in which discretionary jurisdiction under Article 226 of the

Constitution of India can be exercised in favour of the petitioner. The application under Section 18 had been rejected two decades ago. No challenge to the said application could have been entertained in the writ petition filed after 20 years. Rejection of the application under Section 28A could not have been faulted in view of the rejection of the earlier application filed under Section 18 of the LA Act.

We do not find any error in the order of the learned Single Judge which may warrant interference by this Court exercising appellate jurisdiction. This writ appeal is hence dismissed.

(sd/-)

(ASHOK BHUSHAN, CHIEF JUSTICE)

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

