

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 1ST DAY OF DECEMBER 2015/10TH AGRAHAYANA, 1937

WP(C).No. 5636 of 2006 (U)

PETITIONER(S):

**GIREESH, S/O. KRISHNAN KUTTY,
ESWARAMANGALATH HOUSE, METHALA, KODUNGALLOOR,
TRICHUR DISTRICT.**

**BY ADVS.SMT.JEENA JOSEPH
SRI.G.D.PANICKER**

RESPONDENT(S):

- 1. THE SPECIAL TAHSILDAR (L.A) AND
LAND ACQUISITION OFFICER, TRICHUR.**
- 2. THE DIRECTOR, INLAND WATER AUTHORITY
OF INDIA, PARAMARA BUILDINGS, PARAMARA TEMPLE
ROAD, ERNAKULAM, COCHIN-18.**
- 3. SMT. SARASWATHI, W/O. DR. PYRELAL,
SARASWATHAM, CHERTHALA.**

**R1 BY ADV. GOVERNMENT PLEADER SMT.LILLY K.T.
R2 BY ADV. SRI.V.SANTHARAM, SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
01-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 5636 of 2006 (U)

APPENDIX

PETITIONER(S)' EXHIBITS:

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EXT.P1: A TRUE PHOTOCOPY AWARD NO.6/1999 DTD.28.9.1999.

**EXT.P2: A TRUE PHOTOCOPY OF THE PAYMENT SCHEDULE FILED BY THE
PETITIONER.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Ms v/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.5636 of 2006

.....
Dated this the 1st day of December, 2015

J U D G M E N T

The grievance of the petitioner in the present writ petition is essentially that, although the petitioner had preferred an application under Section 18A of the Land Acquisition Act, to refer the matter of compensation for land acquired from him, to the Sub Court, Irinjalakkuda so as to get enhanced compensation for the land acquired, the 1st respondent did not act upon the said application and refer the matter to the Sub Court, Irinjalakkuda. A counter affidavit has been filed by the 1st and 2nd respondents wherein it is stated that on receipt of the award, the petitioner did not formally file his protest before the 1st respondent and it was under those circumstances, that the request of the petitioner for reference was not acted upon.

2. I have heard the learned counsel appearing on behalf of the petitioner, the learned Standing counsel for the 2nd respondent and the learned Government Pleader for the 1st respondent.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that, in view of the fact that the petitioner did not formally file a protest against the award passed in respect of his land, the reference under

Section 18 of the Land Acquisition Act could not be made. The stand of the respondents that the petitioner did not satisfy the ingredients necessary for a referral of the issue of compensation to the Sub Court, Irinjalakkuda cannot be faulted. I find, however, that the refusal to make a reference under S. 18 to the Sub Court, Irinjalakuda cannot stand in the way of the entitlement of the petitioner for a reference under Section 28A of the Land Acquisition Act provided the petitioner complies with the formalities required for such reference. Therefore, without prejudice to the right of the petitioner to approach the authorities under Section 28A of the Land Acquisition Act, the present writ petition is dismissed.

A.K.JAYASANKARAN NAMBIAR
JUDGE

