

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS**

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

WA.No. 1822 of 2008 () IN WP(C).27871/2005

**AGAINST THE ORDER/JUDGMENT IN WP(C) 27871/2005 of HIGH COURT OF KERALA
DATED 29-11-2007**

APPELLANT(S)/PETITIONERS IN THE WPC:

- 1. BHARAT SANCHAR NIGAM LIMITED REP. BY THE
CHIEF ACCOUNTS OFFICER (CASH ACCOUNTS), O/O THE PGMT
B.S.N.L. BHAVAN, KALATHIPARAMBIL, ROAD
ERNAKULAM.**
- 2. ASSISTANT GENERAL MANAGER (BUILDING
PLANNING), O/O THE PGMT, B.S.N.L. BHAVAN
KALATHIPARAMBIL ROAD, ERNAKULAM.**

BY ADV. SRI.C.S.RAMANATHAN

RESPONDENT(S)/RESPONDENTS IN THE WPC:

- 1. STATE OF KERALA, REP. BY CHIEF
SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. SECRETARY, LOCAL ADMINISTRATION,
SECRETARIAT, THIRUVANANTHAPURAM.**
- 3. PRINCIPAL SECRETARY, DEPARTMENT
OF REVENUE, SECRETARIAT, THIRUVANANTHAPURAM.**
- 4. TAHSILDAR, KANAYANNUR TALUK,
ERNAKULAM.**
- 5. SECRETARY, G.C.D.A., ERNAKULAM.**
- 6. BRANCH MANAGER, SBI, ERNAKULAM.**

**R5 BY ADV. SRI.N.NANDAKUMARA MENON (SR.)
R1-4 BY ADV. SR GOVERNMENT PLEADER SRI.THOMAS JOHN AMBOOKEN
R5 BY ADV. SRI.P.K.MANOJKUMAR
R5 BY ADV. SRI.C.A.MAJEED, GCDA**

**THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 11-02-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.
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Writ Appeal No. 1822 of 2008
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Dated this the 11th day of February, 2015

J U D G M E N T

Antony Dominic, J.

This appeal is filed against the judgment of the learned single Judge disposing of WP(C) No.27871/05 rejecting the challenge against the demand for interest from the appellants.

2. We heard the learned counsel for the appellants and the respective counsel appearing for the respondents.

3. From the facts pleaded, it would appear that the land was allotted to the appellants for construction of telephone exchange and for other purposes. Though initially, compensation was paid, the additional compensation also became payable subsequently. There was delay on the part of the appellants in remitting the additional compensation. This led to demand for interest and that amount was also realised by the GCDA through garnishee proceedings. The demand for interest was upheld by the learned single Judge mainly

on the ground of delay on the part of the appellants in paying the additional compensation due.

4. The fact that there was a delay of three years in paying the additional compensation is undisputed. If that be so, the appellants had the liability to pay the interest on the amount that was outstanding. It is true that the GCDA had resolved to waive the liability subject to Government sanction and ultimately the Government rejected the request of the GCDA by Ext.P10. This was also reiterated by the Government in Ext.P19. Pointing out that once GCDA has recommended waiver, Government should not have overruled the decision of the GCDA, counsel contended that Ext.P10 was illegal. We are unable to accept this contention. GCDA is a statutory creature and if in terms of the statute, their action can only be with the approval of the Government and when the very decision of the GCDA was subject to the Government approval, GCDA cannot be faulted for seeking the approval of the Government nor can the Government be faulted for taking a decision to reject the proposal of the GCDA.

5. We, therefore, do not find any force in this contention raised by the counsel. We do not find any good ground to interfere with the judgment under appeal.

Appeal is dismissed.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**ALEXANDER THOMAS
JUDGE**

Rp

//True Copy//

PA to Judge