

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 29TH DAY OF JULY 2015/7TH SRAVANA, 1937

WA.No. 2025 of 2008 ()

AGAINST THE JUDGMENT IN WP(C) 6602/2008 DATED 04-04-2008

APPELLANT(S)/RESPONDENTS 3 & 5 IN WP(C) :-

1. STATE OF KERALA REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.
2. THE DISTRICT COLLECTOR, KOTTAYAM.

BY SR.GOVERNMENT PLEADER SRI.P.I.DAVIS

RESPONDENT(S)/PETITIONERS & RESPONDENTS 1, 2 & 4 IN THE WP(C) :-

1. GEORGE JOSEPH, VELLOKKUNNEL,
CHEMMALAMATTOM, MEENACHIL TALUK, KOTTAYAM.
2. K.M.IMMANUAL, KAIPPANANNIKKAL HOUSE
KALAKETTY P.O., KANJIRAPPALLY, KOTTAYAM DISTRICT.
3. SEBASTIAN.K.VEEDON, VALIAVEETIL HOUSE
ARUVITHURA P.O., ERATTUPETTA, KOTTAYAM DISTRICT.
4. T.C.THOMAS, THADIKKAL, ARUVITHURA P.O.,
ERATTUPETTA, KOTTAYAM DISTRICT.
5. JACOB JOSEPH, AREEPARAMBIL , KALAKETTY P.O.,
KOTTAYAM DIST.
6. K.S.SEBASTIAN, KOTTARATHIL HOUSE,
KALAKETTY P.O., KOTTAYAM DIST.
7. P.T.JOSEPH, PUTHENPARAMBIL HOUSE,
VEILUKANAPARA, ERATTUPETTA, KOTTAYAM DISTRICT.
8. C.S.RADHAKRISHNAN, CHARALEL HOUSE,
KALAKETTY P.O., KOTTAYAM DIST.

9. GEO GEORGE THOMAS @ VARKEY, VELLOKKUNNEL HOUSE,
ARUVITHURA P.O., KOTTAYAM DISTRICT.
10. V.V.JOSEPH, VELLOKKUNNEL HOUSE,
ARUVITHURA P.O, ERATTUPETTA, KOTTAYAM DISTRICT.
11. REJI MATHEW, THURUTHIYIL HOUSE,
ARUVITHURA P.O., ERATTUPETTA, KOTTAYAM DISTRICT.
12. M.G.THANKAPPAN, MUNDAKKAL HOUSE,
KALAKETTY P.O, KOTTAYAM DISTRICT.
13. E.P.KRISHNAN, ETTOLIL HOUSE, POOVARANI
ELIKKULAM P.O.
14. GEORGE PUTHUMANA, PUTHUMANA HOUSE
VANCHIMALA PO., KANJIRAPPALLY, KOTTAYAM DISTRICT.
15. VARKEY THOMMAN, KUZHIPPALAYIL HOUSE
KAPPADU P.O., KOTTAYAM DISTRICT.
16. VARKEY JOHN, CHANDRANKKUNNEL HOUSE,
KAPPADU P.O., KOTTAYAM.
17. SHEELA JOSE, KALLIVAYALIL, KALAKETTY P.O
KOTTAYAM DISTRICT.
18. SHAJI GOPALAN, THERKKATTIL, PANACHIPARA P.O.,
KOTTAYAM DIST.
19. K.J.THOMAS, KUZHIPPALAYIL, KAPPAD P.O.,
KOTTAYAM DIST.
20. VARKEY JOSEPH, KURUVINAPAKUTHIYIL HOUSE
MALLIKASSERY P.O., KOTTAYAM.
21. VARKEY THRESIAMMA, KAPPIYAMKAL,
KALAKETTY P.O., KOTTAYAM DIST.
22. GEORGEKUTTY JOSEPH, AREEPARAMBIL
KALAKETTY P.O, KOTTAYAM.
23. SHAJI.M.T., MUNDAKKAL HOUSE,
KALAKETTY P.O, KOTTAYAM.
24. THOMAS JOHN, AREEPARAMBIL,
KALAKETTY P.O, KOTTAYAM DISTRICT.

25. MATHAI THOMAS, VATTOOTHU HOUSE,
KALAKETTY P.O, KOTTAYAM DISTRICT.
26. M.JACOB JOSE, MUTTATHUPADAM,
KALAKETTY P.O, KOTTAYAM DISTRICT.
27. JOSE CHERIYAN, VETTICKAL HOUSE,
KAPPADU P.O., KOTTAYAM DIST.
28. V.A.HARIDAS, DARSANA, VATTODIL
KALAKETTY P.O., KOTTAYAM DIST.
29. P.M.CHACKO, PALATHINAL, PINNAKKANAD,
KALAKETTY P.O., KOTTAYAM DIST.
30. CICILY JOSEPH, PUTHUPARAMBIL HOUSE, VAILKANAMPARA,
ERATTUPETTA, KOTTAYAM DISTRICT.
31. BENNY STEPHEN, PLATHOTTAM HOUSE,
ARUVITHURA P.O., KOTTAYAM.
32. K.V.RAJU, KANDATHIL HOUSE, THIDANADU P.O.
KOTTAYAM.
33. SIBY GEORGE, PALLIPARAMBIL HOUSE,
THIDANADU P.O., KOTTAYAM.
34. JOJI KURIAN, AYALOOKUNNEL,
CHEMMALAMATTOM, KOTTAYAM.
35. ALIKUTTY KURIAN, AYALOOKUNNEL,
CHEMMALAMATTOM, KOTTAYAM.
36. GEORGE JOSEPH, THOTUMKAL HOUSE
CHEMMALAMATTOM, KOTTAYAM.
37. JACOB SEBASTIAN, VELLOOOKUNNEL,
THIDANADU P.O., KOTTAYAM.
38. K.C.ANITHA, KUNNAKKATTUPADAVIL
UZHAVOOR EAST.
39. ELIYAMMA MATHAI, PLATHOTTATIL, AMPARA P.O
40. V.M.DAVID MATHEW, VALLIKAPPIL,
ARUVITHURA P.O., KOTTAYAM.

41. P.I.THOMAS, PALLIPARAMBIL,
ARUVITHURA P.O., KOTTAYAM.
42. MATHEW SEBASTIAN, MANIYAKUPARA HOUSE
ARUVITHURA P.O., KOTTAYAM.
43. RAJAN.V.A.,
VARAKUKALA, ERATTUPETTA P.O.
44. P.N.SURESH BABU, PARAYIL, PLASSANAL P.O.
45. M.A.ABRAHAM, MARAMATTOM, AMPARA P.O.
46. DR.K.C.BABY, OLIKKAL HOUSE, PALAI P.O.
47. JOICE GEORGE, VALIPARAMBIL, BHARANANGANAM.
48. ROHINI KUTTYAMMA.P.,
THERUMPURATHU HOUSE, AMPARA P.O.
49. M.S.SCAARIA, MANDAPATHIL, MELAMPARA P.O.
50. R.BALAJI ALLOOKUNNEL HOUSE, MELAMPARA P.O.
51. ABRAHAM JAMES, THEKKEATTATHU HOUSE, BHARANANGANAM P.O.
52. RANI GEORGE, VALIYAPARAMBIL, BHARANANGANAM P.O.
53. FR.KURIAN AMMANATUKUNNEL, DIRECTOR,
DEEPTHI BHAVAN, MELAMPARA.
54. INNOCENT MATHEW, MANNORETTONNIL,
MELAMPARA.
55. JOSE JOSEPH, PULICKAL HOUSE
PLASSANAL P.O., KOTTAYAM DIST.
56. SUNNY GEORGE, PULICKATHAZHA, PLASSANAL P.O.
57. ALICE JOSEPH, PULICKATHAZHA, PLASSANAL P.O.
58. LITSY T.JOSEPH, THANNICKUNNEL, PLASSANAL P.O.
59. ANTONY ABRAHAM, THANNIPOTHIYIL, PLASSANAL P.O.
60. K.K.JOSEPH, KADAPLACKAL, PLASSANAL P.O.

61. ANTONY CHACKO, THANNIPOTHIYIL, PLASSANAL P.O.
 62. N.C.CHACKO, NAMPUDUKATTU HOUSE, PLASSANAL P.O.
 63. T.C.MATHEW, THEKKEDATHU, PLASSANAL P.O.
 64. LEENA PIOUS, PEMPILAKUNNEL, PLASSANAL P.O.
 65. VARKEY JOSEPH, PEMPILAKUNNEL, PLASSANAL P.O.
 66. BENNY GEORGE, PEMPILAKUNNEL, PLASSANAL P.O.
 67. M.G.PRAKASH KUMAR, MUTHALAKUZHIYIL, PLASSANAL.
 68. ROSAMMA BRIGHT, CHERRY COTTAGE, ERATTUPETTA.
 69. P.R.VASUDEVAN NAIR, PANDIAYANKAL KUDUMBA YOGAM,
PLASSANAL P.O.
 70. PANKAJAKSHI AMMA, KUNNEL HOUSE, PLASSANAL P.O.
 71. P.V.GEORGE, PEMPILAKUNNEL, PLASSANAL P.O.
 72. THE UNION OF INDIA, MINISTRY OF RAILWAYS,
GOVERNMENT OF INDIA, REP. BY ITS SECRETARY,
RAILWAY BHAVAN, NEW DELHI.
 73. THE RAILWAY BOARD, REP. BY ITS SECRETARY
MINISTRY OF RAILWAYS, RAILWAY BHAVAN, NEW DELHI.
 74. THE GENERAL MANAGER, SOUTHERN RAILWAY
CHENNAI PARK, CHENNAI.
- R72 TO R74 BY SRI.T.P.M.IBRAHIM KHAN, SR.SC, RAILWAYS
SRI.VARGHESE P. THOMAS, SR.SC, RAILWAYS
BY SRI.M.K.DAMODARAN (SR.)

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 29-07-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jvt

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

W.A. No.2025 of 2008

Dated this the 29th day of July 2015

J U D G M E N T

Shaffique, J

This writ appeal has been filed by the State and its authority challenging the judgment dated 4.4.2008 in W.P.(C) No.6602 of 2008.

2. The subject matter involved in the said writ petition was with regard to acquisition proceedings being initiated by the Government through a Government of India Enterprise, by name, RITES to conduct a study for setting up of Angamali-Erumeli Broad-Gauge Railway line. The contention urged was that, without considering the legal issues involved in the matter, there was a proposal to issue notice under Sec.4(1) of the Land Acquisition Act, 1894 (in short 'the Act).

3. The learned Single Judge, after evaluation of the respective contentions urged on behalf of the petitioners, directed that even before issuance of notification under Sec.4(1) of the Act, a public hearing has to be held. It is impugning the aforesaid direction that this writ appeal has been filed.

-: 2 :-

4. Having regard to the fact that the Land Acquisition Act, 1894 has already been repealed and a new Act, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, has come into force, we are of the view that, this judgment will not stand in the way of the Government to proceed with the acquisition proceedings as per the provisions of Act, 2013 as mentioned above.

Under such circumstances, we do not think it necessary to pass any order as prayed for in this writ appeal. Accordingly, this writ appeal is closed with the above clarification.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE

//TRUE COPY//

P.A. TO JUDGE

Jvt