

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI PCHALY

FRIDAY, THE 29TH DAY OF MAY 2015/8TH JYAISHTA, 1937

W.A.No. 1568 of 2013 IN WP(C).3226/2013

AGAINST THE JUDGMENT IN WP(C) 3226/2013 of HIGH COURT OF KERALA DATED 27-06-2013

APPELLANT/PETITIONER:

SUDHAKUMARI.S.
D/O. SAROJINIAMMA, PULIMOOTTIL HOUSE, PEPPARA.P.O.
VITHURA, NEDUMANGAD, THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRLANCHAL C.VIJAYAN

RESPONDENTS:

1. THE DISTRICT COLLECTOR
THIRUVANANTHAPURAM-695 001.
2. THE SPECIAL TAHZILDAR (LA)
P.W.D. (SOUTHERN CIRCLE) FORT
THIRUVANANTHAPURAM-695 001.

R1, R2 BY ADV. GOVERNMENT PLEADER SRI.P.FAZIL

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 29-05-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC & SHAJI P.CHALY, JJ.

Writ Appeal No.1568 of 2013

Dated this the 29th day of May, 2015

JUDGMENT

Antony Dominic, J.

Appellant filed the Writ Petition No.3226/2013 challenging Ext.P4. By this order, Ext.P3 application made by him under Section 28(A) of the Land Acquisition Act, 1894 was rejected by the Special Tahsildar. The learned Single Judge dismissed the writ petition. Hence this appeal.

2. We have considered the contentions urged in the appeal. Judgment under appeal show that the ground on which the learned Single Judge had dismissed the writ petition is delay and laches and this is on the basis that though Ext.P4 order was passed on 7.9.2000, the writ petition was filed only on 25.6.2013.

3. From the above itself, it is evident that the writ petition was highly belated and the appellant was guilty of delay and laches as found by the learned Single Judge. However, referring to Exts.P5 and P6 representations were allegedly made by her for correction of Ext.P4 and

according to the appellant, these representations were made by her on 17.10.2000 and 20.06.2006 and since orders were not passed on these representations, the writ petition was filed. In our view, these representations also will not save appellant because it is trite that non statutory representations cannot save a litigant from delay, laches and limitation. Therefore, the conclusion of the learned Single Judge cannot be interfered with.

4. The ground raised by the appellant on merits also cannot be accepted. According to the appellant, an application under Section 28A of the Act is to be disposed of by the Collector and that Ext.P4 order was passed by the Special Tahsildar, who is an incompetent authority. However, from Section 3(c) of the Land Acquisition Act, 1894, we find that Collector includes any officer specifically appointed by the appropriate Government to perform the functions of the Collector under the Act also. Accordingly, Government have issued G.O.(MS)16/87/RD dated 16th January 1987, appointing

Special Tahsildar who issued Ext.P4 under Section 3(c). This, therefore, means that the officer who was issued Ext.P4 was well within his power in passing the said order.

For both these reasons, we do not find any merit in this appeal. Appeal is accordingly dismissed.

Sd/-
ANTONY DOMINIC
JUDGE

Sd/-
SHAJI P. CHALY
JUDGE

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