

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR.JUSTICE K.HARILAL**

THURSDAY, THE 29TH DAY OF JANUARY 2015/9TH MAGHA, 1936

WA.NO. 151 OF 2015

**AGAINST THE JUDGMENT IN WP(C) 30679/2014 OF HIGH COURT OF KERALA DATED
28.11.2014**

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APPELLANTS/PETITIONERS:

- 1. DR.SIMON,
S/O.NADANKAN, T.C 55/1523, KAIMANOM,
TRIVANDRUM- 40.**
- 2. MANI DHARMAJAN, S/O. D MANI, T.C 55/1522,
KAIMANOM, TRIVANDRUM- 40.**

**BY ADVS.SRI.THOMAS ABRAHAM
SMT.MERCIAMMA MATHEW
SRI.V.RENJITH KUMAR
SRI.ASWIN.P.JOHN**

RESPONDENTS/RESPONDENTS:

- 1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY, DEPARTMENT OF REVENUE,
GOVERNMENT OF KERALA, SECRETARIAT, TRIVANDRUM- 695 001.**
- 2. SECRETARY,
PUBLIC WORKS DEPARTMENT, GOVERNMENT OF KERALA,
SECRETARIAT, THIRUVANANTHAPURAM- 695 001.**
- 3. DISTRICT COLLECTOR,
TRIVANDRUM, COLLECTORATE, KUDAPPANAKUNNU
TRIVANDRUM.**
- 4. CHIEF ENGINEER
PUBLIC WORKS DEPARTMENT, NH DIVISION , PMG JUNCTION
THIRUVANANTHAPURAM- 695 001**
- 5. SUPERINTENDING ENGINEER, PWD, NH DIVISION,
PMG JUNCTION, TRIVANDRUM- 695 001**

**6. EXECUTIVE ENGINEER, PWD, NH DIVISION,
PMG JUNCTION, TRIVANDRUM 695 001.**

**7. ASSISTANT EXECUTIVE ENGINEER,
PWD, NH DIVISION, PMG JUNCTION
TRIVANDRUM- 695 001**

**8. DY.COLLECTOR (LA) AND LAND ACQUISITION OFFICER,
COLLECTORATE, KUDAPPANAKUNNU, TRIVANDRUM- 695 033**

**9. SMT. L. PADMAKUMARI AMMA,
RESIDING AT CLRA 61, CHEPPIL LANE, SREEVARAHAM
MANACAUD P.O, TRIVANDRUM- 695 009**

**10. SMT.P.N SUDHARMA,
ASSISTANT EXECUTIVE ENGINEER, PWD (NH), PMG JUNCTION
PATTOM P.O, TRIVANDRUM- 695 033**

BY SPL.GOVERNMENT PLEADER SRI.P.M.A.KALAM

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 29-01-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

OKB

THOTTATHIL B. RADHAKRISHNAN & K.HARILAL, JJ.

Writ Appeal No.151 of 2015

Dated this the 29th day of January, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

We have heard the learned counsel for the appellants and the learned Senior Government Pleader.

2. At the outset, we may record that the impugned interlocutory order of the learned single Judge itself mentions about the pendency of another writ appeal in relation to the challenge of a declaration made under Section 6 of the Land Acquisition Act, 1894.

3. In so far as this appeal is concerned, it arises from a writ petition fundamentally projecting a plea that larger extent than what is required for the proposed alignment of a road is attempted to be taken possession of. The fact of the matter remains that though an interlocutory order was issued on 18/11/2014 directing status quo as on that day, to enable the Government Pleader to obtain instructions, the learned single Judge, hearing the parties on 28/11/2014, noted that the declaration under Section 6 of the Land Acquisition Act was published on 12/2/2013, the award was

passed on 15/10/2013 and property was taken possession of on 17/2/2014. The award amounts have also been deposited in the jurisdictional civil court. That being so, we do not see any legal infirmity or jurisdictional error in the learned single Judge having vacated the earlier interlocutory order directing maintenance of status quo.

4. Obviously, if the appellants have any grievance of excessive exercise of authority under the colour of land acquisition or injurious demolition of structures or encroachment, those are matters that can be taken up in appropriate jurisdiction including for relief in that regard if available in the pending writ petition. This appellate judgment will not impair any such right of the appellants, in accordance with law.

5. Subject to the aforesaid, we see no ground to interfere with the impugned interlocutory order.

In the result, this writ appeal is dismissed in limine.

Sd/-

THOTTATHIL B. RADHAKRISHNAN, JUDGE

Sd/-

K.HARILAL, JUDGE

okb.