

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

WA.No. 261 of 2015 IN WP(C).22041/2011

AGAINST THE JUDGMENT IN WP(C) 22041/2011 DATED 01-01-2014

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APPELLANTS/PETITIONERS 1 TO 3 AND 5 :

1. ANANTHAPADMANABHAN, AGED 53 YEARS,
SON OF RAMASUBRAMANIAN, T.C.55/672/1.2.3, NEERAMANKARA
TRIVANDRUM-18.
2. RADHAKRISHNAN, AGED 44 YEARS,
SON OF R.SIBRAMONIA PILLAI, T.C.NO.55/679
RAJA PROVISION STORES, TAILOR SHOP, NEERAMANKARA
TRIVANDRUM-18.
3. ARUNACHALAM PILLAI, AGED 55 YEARS,
SON OF PADMANABHA PILLAI, HARDWARES, T.C.NO.55/679
1.2.3, NEERAMANKARA, TRIVANDRUM-18.
4. VENKATESWARA IYER,
AGED 74 YEARS, SON OF V. NARAYANA IYER, T.C.NO55/677
NEERAMANKARA, TRIVANDRUM-18.

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

RESPONDENTS :

1. STATE OF KERALA, REPRESENTED BY
DEPUTY COLLECTOR, LAND ACQUISITION-695 001.
2. LAND ACQUISITION OFFICER,
COLLECTORATE, KUDAPPANAKUNNU
THIRUVANANTHAPURAM-695 001.

3. CHIEF ENGINEER NH, THIRUVANANTHAPURAM-695 001.
4. EXECUTIVE ENGINEER, NH DIVISION,
THIRUVANANTHAPURAM-695 001.
5. NEELAKANDAN, AGED 66 YEARS,
SON OF RENGANATHAN S.A., T.C.NO.55/676, NEERAMANKARA
TRIVANDRUM-18.
6. LATHEEFA.M.P., AGED 33 YEARS,
DAUGHTER OF M.PERUKANNU, T.C.NO.55/683 B
SANTHOSH NAGAR, NEERAMANKARA, PAPPANAMCODE POST
TRIVANDRUM-18.
7. FATHEELA M.P., AGED 31 YEARS,
DAUGHTER OF M.PERUKANNU, T.C.55/683B, SANTHOSH NAGAR
NEERAMANKARA, PAPPANAMCODE POST, TRIVANDRUM-18.
8. KRISHNAMOORTHY A., AGED 74 YEARS
SON OF P.ANANTHAPADMANABHA IYER (LATE), T.C.55/685
PAPPANAMCODE POST, TRIVANDRUM-18.
9. JASILA, AGED 53 YEARS,
M.S.BUNGLOW, PAPPANAMCODE POST, NEERAMANKARA
TRIVANDRUM-18.
10. AHAMED KABER, AGED 65 YEARS,
SON OF SAKIER BAVA, T.C.55/708, NEERAMANKARA
TRIVANDRUM-18.

R1 & R2 BY SR.GOVERNMENT PLEADER, SRI. C.R. SYAM KUMAR.
R3 & R4 BY ADV. SRI.THOMAS ANTONY, SC, NHAI

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 19-02-2015,
ALONG WITH W.A. No,262/2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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

W.A. Nos. 261 and 262 OF 2015

Dated this the 19th day of February, 2015

JUDGMENT

Ashok Bhushan, Ag.C.J.

These two appeals have been filed by the appellants against the common judgment dated 01.01.2014 passed in W.P.(C) Nos.22041 and 22351 of 2011 respectively.

2. The appellants are land holders whose land was acquired for widening National Highway under the Land Acquisition Act, 1894. Learned Single Judge by the impugned judgment dismissed the writ petitions taking the view that the earlier judgment delivered by him on 11.04.2013 in W.P.(C) No.5261 of 2013 covers the entire issue and following that judgment, the writ petitions have been dismissed.

3. Learned counsel for the appellants, Sri.Thomas Abraham, contended that there were certain other issues in the writ petitions which ought to have been gone into and learned Single Judge committed error in dismissing the writ petitions following the judgment dated 11.04.2013.

4. Learned Government Pleader has raised objection to the continuance of these appeals. He submits that in the

writ petition which was filed on 06.08.2011, prayers were made to quash Section 4 notification and no prayer was made or subsequently added for quashing the declaration under Section 6 of the Act which is declared on 15.02.2013. It is submitted by learned Government Pleader that all the prayers in the writ petitions were confined to the stage prior to the declaration under Section 6 of the Act and as the declaration having been issued, which was not under challenge, no relief can be granted to the appellants and the writ appeals are liable to be dismissed on this ground alone.

5. We have perused the reliefs claimed by the appellants in the above writ appeals. In W.A. No.261 of 2015 the appellant has prayed for quashing Ext.P7 and P8. Ext.P7 is a notification dated 09.08.2012 under Section 4(1) of the Act and Ext.P8 is also another notification under Section 4(1) published in newspaper. Both the notifications covered different plots of the land which were proposed to be acquired. In W.A. No.262 of 2015 there was no occasion to challenge even Section 4 notification issued and

subsequently no amendments were carried out in the writ petitions for challenging Section 4 and Section 6 notifications.

6. There being no challenge in the writ petitions to Section 6 notification, we fail to see, what relief can be granted to the appellants when the notification remains unchallenged. We find sufficient substance in the objection raised by learned Government Pleader. In view of the aforesaid, accepting the said objection, we are of the view that the appeals are liable to be dismissed on that ground alone. We make it clear that we are not expressing anything on merits with regard to the various grounds which were taken in the writ petitions and we do not intend to express any opinion.

With the above observation, these Writ Appeals are dismissed.

**Ashok Bhushan,
Acting Chief Justice.**

**A.M. Shaffique,
Judge.**