

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN

&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

WA.No. 959 of 2015 () IN WP(C).22752/2014

AGAINST THE JUDGMENT IN WP(C) 22752/2014 of HIGH COURT OF KERALA
DATED 29-08-2014

APPELLANT(S)/PETITIONERS :-

1. JANAKI K.K., AGED 69 YEARS, W/O.GOPALAN NAMBIAR.P.,
KAMBANKULAM HOUSE, V.V.NAGAR, CHERUVATHUR P.O.,
KASARAGOD DISTRICT.
2. NANDINI.K.K., W/O.P.V.BALAKRISHNAN NAIR,
KAMBANKULAM HOUSE, V.V.NAGAR,
CHERUVATHUR P.O., KASARAGOD DISTRICT.

BY ADV. SRI.M.SASINDRAN

RESPONDENT(S)/RESPONDENTS :-

1. THE SPECIAL TAHSILDAR (LA), LAND ACQUISITION,
EZHIMALA NAVAL ACADEMY PROJECT, PAYYANNUR - 670 307.
2. THE DISTRICT COLLECTOR,
KANNUR - 670 001.

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

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 02-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jvt

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

W.A. No.959 of 2015

Dated this the 2nd day of June 2015

J U D G M E N T

Ashok Bhushan, CJ

This writ appeal has been filed against the judgment dated 29.8.2014 in W.P.(C) No.22752 of 2014. It is alleged by the appellants/petitioners that land acquisition proceedings were initiated with regard to an extent of 1.56 Acres of land in Re-survey No.212/Part of Ramanthali Village. It is submitted that the mother of the petitioners was the absolute owner of the said land and the same was acquired by the Government for setting up of Naval Academy. Similar land situated near to the property of the appellants were acquired by the Government under the very same notification and the owners of the property filed application under Sec.18 of the Land Acquisition Act and the said reference was answered by the Sub Court, Payyannur enhancing the compensation. No reference was made by the petitioners' mother under Sec.18 of the Act. However, after the judgment in L.A.R.No.120 of 1987 by the Sub Court, Payyannur, the petitioners' mother filed an application dated 28.5.1998

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under Section 28A praying for re-determination of the compensation with reference to the said judgment, which was rejected by the Special Tahsildar (LA) by order dated 20.6.2001, a copy of which was produced as Ext.P2. Thereafter, another application dated 23.7.2001, Ext.P3 was filed by the petitioners' mother under sub section (3) of Section 28A. Aggrieved by the non-consideration of Ext.P3 application, the petitioners, who claim to be the legal heirs of late K.K.Narayani Amma had filed a writ petition as W.P.(C) No.22752 of 2014 praying for following reliefs :-

- “(i) issue a writ of certiorari or any other writ or order to quash Ext.P2;
- (ii) declare that the Ext.P1 application filed by the petitioner's mother under Section 28A of the Land Acquisition Act, 1894, is maintainable;
- (iii) command the 1st respondent to consider the Ext.P1 application on merit in view of the dictum laid down in 2002 (7) SCC 273, within one month;
- (iv) direct the 1st respondent to refer Ext.P3 application to Sub Court, Payyannur to re-determine the compensation under Section 28A (3) of Land Acquisition Act.”

2. The learned Single Judge took the view that the petitioners' mother, who suffered Ext.P2 order never cared to challenge Ext.P2 during her life time. Petitioners' mother died

in 2011 and after a decade, the petitioners have come up with the said writ petition praying for setting aside the order, Ext.P2 and further praying to decide Ext.P3. Ext.P2, which was passed in the year 2001 could not be allowed to be challenged after more than 13 years.

3. It is submitted that in the writ petition, there was a substantial prayer, prayer No.(iv), where a direction to first respondent was sought for, to refer Ext.P3 application to the Sub Court, Payyannur. It is submitted that Ext.P3 application is under sub section (3) of Section 28A of the Land Acquisition Act, which remained pending, hence a direction ought to have been issued to decide the same.

4. We have considered the submissions made by both sides and perused the records.

5. It is claimed by the petitioners that the application, Ext.P3 dated 23.7.2001 is pending and which may be directed to be decided after more than 13 years, whereas, the petitioners' mother, who was alive till 2011 never cared to either challenge Ext.P1 or come for a direction to consider Ext.P3. The petitioners ought to have approached the

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jurisdictional court under Article 226 of the Constitution within a reasonable time. The writ petition was clearly barred by laches and has been rightly dismissed by the learned Single Judge.

There is no merit in the writ appeal and it is hence, dismissed.

**Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE**

**Sd/-
A.M. SHAFFIQUE
JUDGE**

//TRUE COPY//

P.A. TO JUDGE

Jvt