

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 11TH DAY OF JUNE 2015/21ST JYAISHTA, 1937

WA.No. 986 of 2015 IN WP(C).3228/2015

AGAINST THE JUDGMENT IN WP(C) 3228/2015 DATED 23/02/2015

.....

APPELLANT/PETITIONER IN THE WRIT PETITION :

THOMAS @ JOBY JOSEPH, AGED 52 YEARS,
S/O.JOSEPH, THEKKEPPARAMBIL HOUSE,
VALLIKKADU, ETTUMANOOR P.O.,
KIZHAKKUMBHAGOM KARA,
ETTUMANOOR VILLAGE, KOTTAYAM TALUK.

BY ADVS.SRI.LIJI.J.VADAKEDOM
SRI.RAJEEV JYOTHISH GEORGE

RESPONDENT/RESPONDENT IN THE WRIT PETITION :

THE SPECIAL TAHSILDAR,
LAND ACQUISITION (GENERAL),
KOTTAYAM - 686 001.

BY SPL.GOVERNMENT PLEADER, SMT. GIRIJA GOPAL

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
11-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

W.A.No. 986 of 2015

Dated this the 11th June, 2015

JUDGMENT

Ashok Bhushan, CJ.

Heard learned counsel for the petitioner and the learned Government Pleader.

2. This Writ Appeal has been filed against the judgment dated 23.2.2015 in W.P(C).No.3228 of 2015. Proceedings under the Land Acquisition Act, 1894 were initiated to acquire the land of the petitioner. Notification under Section 4 of the Land Acquisition Act. 1894 was issued on 21.10.2011. Declaration was also issued on 24.12.2012. However, the award under the Land Acquisition Act, 1894 was prepared and declared on 30.8.2014. The petitioner-appellant challenged the award on the ground that the award ought to have been prepared in accordance with the Right to Fair

Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, which had already been in force with effect from 1.1.2014. Accepting the statement by learned counsel for the petitioner-appellant, the learned Single Judge has set aside Exhibit P1 award and directed the respondent to pass award under the New Act, i.e., the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The learned Single Judge further directed the respondent to retain the land and the amount already paid to the petitioner shall be given credit to while determining the compensation afresh under the new Act. The petitioner aggrieved by the said judgment has come up in the Writ Appeal.

3. Learned counsel for the appellant submits that the learned Single Judge ought not to have directed to retain the possession of the land by the respondent. He further submits that a direction be issued to the respondent to declare the award within a specified period.

4. We have considered the submissions made by learned counsel for the parties and perused the records.

5. We do not find any error in the judgment of the learned Single Judge directing the respondent to retain possession of the land which was taken in accordance with the Land Acquisition Act, 1894. There was no challenge to the acquisition proceedings except the challenge to the award which was delivered on 30.8.2014. Thus, the learned Single Judge did not commit any error in directing retention of the possession by the respondent. As far as issuing of award under the new Act, the learned Government Pleader, on instructions, submitted that no Rules have yet been framed and the authorities are feeling difficult in immediately issuing the award. It is submitted that however, steps shall be taken to prepare and issue the award as early as possible.

In the above view of the matter, we observe that the respondent shall take steps for preparation and issue of award under the new Act expeditiously.

Subject to the above observation, the Writ Appeal is dismissed.

**ASHOK BHUSHAN
CHIEF JUSTICE**

**A.M.SHAFFIQUE
JUDGE**

vgs11/6/15