

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

THURSDAY, THE 4TH DAY OF JUNE 2015/14TH JYAISHTA, 1937

WP(C).No. 2056 of 2011 (F)

PETITIONER(S):

KURIAKOSE, S/O.JOSEPH,
MOOLEKKARAYIL HOUSE, MANAKKAD KARA, MANAKKAD VILLAGE
THODUPUZHA TALUK.

BY ADVS.SRI.P.V.ABRAHAM
SMT.LEELAMMA GEORGE ABRAHAM
SRI.PRATAP ABRAHAM VARGHESE

RESPONDENT(S):

1. STATE OF KERALA REP.BY SECRETARY
REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM-695 001.
2. THE DISTRICT COLLECTOR,
PAINAVU, IDUKKI-685 603.
3. THE REVENUE DIVISIONAL OFFICER,
KUYILIMALA, IDUKKI-685 603.
4. THE SPECIAL TAHSILDAR,
LAND ACQUISITION, THODUPUZHA-685 584.

R, BY ADV. SR.GOVERNMENT PLEADER SRI.THOMAS JOHN AMBOOKEN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
04-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN W.P.(C) No.2056 of 2011

PETITIONER'S EXTS:

- EXT.P1 A TRUE COPY OF THE PETITION DATED 24.4.2010 FILED BY THE PETITIONER UNDER S.28A OF THE L.A.ACT.
- EXT.P2 A TRUE COPY OF THE LETTER DATED 31.5.2010 FROM THE OFFICE OF THE R.D.O.IDUKKI.
- EXT.P3 A TRUE COPY OF THE APPLICATION FILED ALONG WITH JUDGMENT IN LAR 87/2005 DATED 15.6.2010
- EXT.P4 A TRUE COPY OF THE RECEIPT DATED 15.6.2010 ISSUED BY THE SAID OFFICE.
- EXT.P5 A TRUE COPY OF THE ORDER OF THE 4TH RESPONDENT DATED 14.7.2010
- EXT.P6 A TRUE COPY OF ONE OF SUCH ORDERS PASSED BY THE THIRD RESPONDENT DATED 26.4.2006.

//TRUE COPY//

P.S. TO JUDGE.

V.CHITAMBARESH, J.

W.P (C) No.2056 of 2011

Dated this the 4th day of June, 2015

J U D G M E N T

It cannot be disputed that the third respondent was earlier entertaining applications filed under Section 28A of the Land Acquisition Act, 1894. This is evident from Ext.P6 proceedings disposing of an application under Section 28A of the said Act for re-determination of the compensation amount filed by another.

2. The petitioner cannot therefore be blamed for filing Ext.P1 application and that Section 28A of the Act with the third respondent even though the fourth respondent had by that been notified as the authority. The third respondent has returned Ext.P1 application by Ext.P2 order which has been re-presented to the fourth respondent along with Ext.P3 application.

3. The fact that Ext.P1 application along with Ext.P3 application was filed without delay soon after Ext.P2 order as evident by Ext.P4 acknowledgment. It has therefore to be treated that Ext.P1 application has been filed on 24.4.2010 with the fourth respondent on the basis of the judgment in LAR.No.87/2005 - Sub

Court, Thodupuzha.

4. Ext.P5 order rejecting Exts.P1 and P3 applications as barred by time by the fourth respondent cannot therefore be countenanced in law. I quash Ext.P5 order and direct the fourth respondent to reconsider Exts.P1 and P3 applications on merit.

5. The same shall be done with notice to the petitioner applying the para-meters of Section 28A of the Land Acquisition Act, 1894. I clarify that the application for re-determination of compensation shall be dealt with on merits and shall not be rejected on the ground of delay for the reasons afore-stated.

The writ Petition is disposed of.

V.CHITAMBARESH,
Judge.

nj.