

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 25TH DAY OF SEPTEMBER 2015/3RD ASWINA, 1937

WA.No. 2109 of 2015

ORDER DATED 07-07-2015 IN WP(C) 13552/2015
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APPELLANT(S)/PETITIONERS:

1. DOLLY AJI,
W/O.AJI JOSE, RESIDING AT ALAPPATTUKUNNEL HOUSE,
KIZHATHADIYOOR KARA, LALAM VILLAGE, MEENACHIL TALUK,
KOTTAYAM DISTRICT.
2. THOMAS V.T., AGED 49 YEARS,
S/O.LATE V.T.THOMAS, RESIDING AT VARACHEIRL HOUSE,
PALA, MEENACHIL VILLAGE AND TALUK, KOTTAYAM DISTRICT.

BY ADV. SRI.P.C.HARIDAS

RESPONDENT(S)/RESPONDENTS:

1. STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.
2. LAND REVENUE COMMISSIONER,
THIRUVANANTHAPURAM-695 001.
3. DISTRICT COLLECTOR,
KOTTAYAM-686 001.
4. SPECIAL TAHSILDAR (LA),
GENERAL, KOTTAYAM (MINI CIVIL STATION),
BEHIND THIRUNAKKARA TEMPLE, KOTTAYAM)PIN-686 001.
5. CHIEF ENGINEER,
PUBLIC WORKS DEPARTMENT, THIRUVANANTHAPURAM-695 001.
6. EXECUTIVE ENGINEER,
PUBLIC WORKS DEPARTMENT(ROADS), KOTTAYAM-686 001.
7. THE SECRETARY TO THE DEPARTMENT OF REVENUE,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.

BY SENIOR GOVERNMENT PLEADER SRI.C.S.MANILAL

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 25-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

ASHOK BHUSHAN, CJ

&

A.M.SHAFFIQUE, J.

W.A.No.2109 of 2015

Dated this the 25th day of September 2015

J U D G M E N T

Ashok Bhushan, CJ

Heard learned counsel for the appellant and the learned senior Government Pleader.

2. This writ appeal has been filed by the petitioner in W.P.C.No.13552 of 2015 against the order of the learned Single Judge dated 07/07/2015 by which the interim order of stay granted to the petitioner has been vacated. The writ petition was filed challenging the proceeding for determination of compensation under the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act'). Petitioner's case was that award has to be passed under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the 2013 Act') since the possession was not taken before passing of the award. Initially, the learned Single Judge had passed an interim order staying further proceedings, which was vacated by the impugned

order dated 07/07/2015. The learned counsel for the appellant submits that there was no justification for the respondent to pass an award under the 1894 Act and they ought to have prepared the award only under the 2013 Act and there is no justification for vacating the interim order.

3. The learned Single Judge in its order noticed that the acquisition is for widening a PWD road and the proceedings commenced about four years ago. The learned Single Judge, in the facts and circumstances of the case, vacated the interim order. However, it was observed that the award has to be passed under the 2013 Act as was submitted by the learned Government Pleader. Petitioner's right to receive compensation under the 2013 Act has not been denied.

4. The learned Government Pleader has referred to a judgment of this Court in **Varghese M.V. v. State of Kerala and Others** [2015(4) KHC 200(DB)] wherein, this Court, while disposing of the writ appeal, has directed the award to be prepared within six months from the date of receipt of a copy of the judgment.

5. In the above view of the matter, although we do not find any error in the order of the learned Single Judge vacating the interim order, we dispose of the writ appeal with the observation that the award under the 2013 Act shall be prepared within a period of six months from the date of receipt of a copy of the order produced by the appellant before the competent authorities.

This writ appeal is disposed of as above.

(sd/-)

(ASHOK BHUSHAN, CHIEF JUSTICE)

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

