IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 14TH DAY OF JANUARY 2015/24TH POUSHA, 1936

WP(C).No. 1287 of 2015 (I)

PETITIONER(S):
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1. VIJAYAKUMAR, S/O.PUSHPANGATHA PANICKER,
   PUSHPA VILASAM BUNGLAW, KUTTAMALA,
   KANKOTTUPARA, VAZHICHAL.

2. REETHA, D/O.SYAMALA, PUSHPA VILASAM BUNGLAW,
   KUTTAMALA, KANKOTTUPARA, VAZHICHAL.

BY ADVS.SRI.D.KISHORE
SMT.MINI GOPINATH

RESPONDENT(S):
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1. STATE OF KERALA,
   REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
   PUBLIC WORKS DEPARTMENT, SECRETARIAT,
   THIRUVANANTHAPURAM-695 001

2. THE DISTRICT COLLECTOR, THIRUVANANTHAPURAM-695 004

3. THE SPECIAL TAHSILDAR, LAND ACQUISITION OFFICER,
   LAND ACQUISITION, (NATIONAL HIGHWAYS) PMG,
   THIRUVANANTHAPURAM-695 004

4. THE REVENUE INSPECTOR,
   OFFICE OF THE SPECIAL TAHSILDAR (LA),
   (NATIONAL HIGHWAYS), PMG, THIRUVANANTHAPURAM-695 004

5. THE COMMISSIONER OF INCOME TAX (TDS),
   OFFICE OF THE COMMISSIONER OF INCOME TAX,
   KOWDIAR, THIRUVANANTHAPURAM-695 001.

R1 TO R4 BY SR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN
R5 BY SRI.JOSE JOSEPH, SC, FOR INCOME TAX

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).NO.1287/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1 COPY OF THE NOTICE OF AWARD UNDER SECTION 12(2) OF THE LAND ACQUISITION ACT DATED 16/8/2014 ISSUED BY THE 3RD RESPONDENT.

P2 COPY OF THE NOTICE OF TAKING POSSESSION OF LAND DATED 16/8/2014 ISSUED BY THE 3RD RESPONDENT.

P3 COPY OF THE PROCEEDINGS NO.LAC NO.379/13(I) DATED 16/9/2014 ISSUED BY THE 3RD RESPONDENT TO THE 1ST PETITIONER.

P4 COPY OF THE PROCEEDINGS NO.LAC NO.379/13(2) DATED 16/9/2014 ISSUED BY THE 3RD RESPONDENT TO THE 2ND PETITIONER.

P5 COPY OF THE CHEQUE NO.TJ 137284 ISSUED IN FAVOUR OF THE 1ST PETITIONER.

P6 COPY OF THE CHEQUE NO.TJ 137285 ISSUED IN FAVOUR OF THE 2ND PETITIONER.

P7 COPY OF THE JUDGMENT DATED 8/1/2009 IN W.A.NO.2243 OF 2008

P8 COPY OF THE JUDGMENT DATED 7/1/2013 IN WP(C).NO.568 OF 2013.

P9 COPY OF THE JUDGMENT DATED 24/5/2013 IN WP(C).NO.13101 OF 2013.

P10 COPY OF THE JUDGMENT DATED 3/6/2014 IN WP(C).NO.4209/2014 OF THIS HONOURABLE COURT.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.1287 OF 2015

Dated this the 14th day of January, 2015

J U D G M E N T

The challenge in this writ petition is against the action of the respondents in deducting tax at source, under Section 194(LA) of the Income Tax Act, on the amounts payable to the petitioners towards compensation under the Land Acquisition Act. The issue with regard to the entitlement of the persons, similarly situated as the petitioners, to receive the compensation amount without any deduction there from under Section 194 LA of the Income Tax Act, has already been decided in their favour in Ext.P10 judgment (Judgment dated 03.06.2014 in W.P(C) 4209/2014 and connected cases). I note, however, that in the instant case, the deductions were already effected, albeit erroneously, and amounts paid over to the Income tax Department. Under the circumstances, the remedy of the petitioners would lie in filing appropriate returns, for the assessment years in question, before the income tax authorities, and claiming a refund of the tax amount deducted at source from payments made to them in terms of the Land Acquisition Act. Thus, leaving it open to the petitioners to pursue the aforesaid course of action, the writ petition is closed by holding that the petitioners are otherwise entitled to the benefit of Ext.P10 judgment.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns