IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 28TH DAY OF MAY 2015/7TH JYAISHTA, 1937

WP(C).No. 2705 of 2014 (K)

PETITIONERS :
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1. V.K.PRABHAKARAN
   S/O.KRISHNAN, VALIYAPARAMBIL HOUSE,
   NADAMA VILLAGE EROOR P.O.

2. RAMACHANDRAN
   S/O.VIMALACHANDRAN, IKKARAPARAMPI, EROOR P.O.,

3. SREELEKHA RAMACHANDRAN
   W/O.RAMACHANDRAN, IKKARAPARAMPIL, EROOR P.O.

4. SHAIL KUMAR
   S/O.SUKUMARAN, THOPPIL, EROOR P.O.,

5. VALSAN, S/O.KRISHNAN
   KANNATHIKAVU, EROOR P.O.,

   BY ADVS.SRI.P.MARTIN JOSE
   SRI.P.PRIJITH
   SRI.THOMAS P.KURUVILLA

RESPONDENTS :
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1. THE DISTRICT COLLECTOR
   CIVIL STATION, KAKKANADU, ERNAKULAM
   PIN 682 030.

2. THE SPECIAL TAHASILDAR (LAND ACQUISITION)
   RAILWAYS, KARSHAKA ROAD, ERNAKULAM 682 016

3. THE COMMISSIONER OF INCOME TAX (TDS)
   C.R.BUILDINGS, IS PRESS ROAD, KOCHI-682 018.

   R1 BY GOVERNMENT PLEADER SRI. R. RANJITH
   R2 BY SRI.C.S.DIAS,SC, RAILWAYS
   R3 BY SRI.JOSE JOSEPH, SC, FOR INCOME TAX

   THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 2705 of 2014 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: **TRUE COPY OF AGREEMENT DATED 17-01-2014 EXECUTED BY 1ST PETITIONER WITH 1ST RESPONDENT.**

EXT.P2: **TRUE COPY OF AGREEMENT DATED 17-01-2014 EXECUTED BY 2ND PETITIONER WITH 1ST RESPONDENT.**

EXT.P3: **TRUE COPY OF AGREEMENT DATED 17-01-2014 EXECUTED BY 3RD PETITIONER WITH 1ST RESPONDENT.**

EXT.P4: **TRUE COPY OF DECLARATION UNDER SECTION 9(3) OF LAND ACQUISITION ACT IN RESPECT OF PROPERTY OF 4TH PETITIONER.**

EXT.P5: **TRUE COPY OF DECLARATION UNDER SECTION 9(3) OF LAND ACQUISITION ACT IN RESPECT OF PROPERTY OF 5TH PETITIONER.**

EXT.P6: **TRUE COPY OF JUDGMENT IN WPC.NO.10691 OF 2010 DATED 06-04-2010 OF THIS HON'BLE COURT.**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.MUHAMED MUSTAQUE, J.

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W.P.(C) No.2705 of 2014

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Dated this the 28th day of May, 2015

JUDGMENT

Properties of the petitioners' were acquired for the purpose of construction of Railway overbridge. The petitioner submits that based on the negotiated settlement, the land value will have to be paid by the Revenue. However, authorities proposed to deduct tax under Section 194 L.A. of the Income Tax Act. The petitioners challenge the above action.

2. This Court, in similar circumstances, disposed W.P.(C) No.13470/2014 and connected cases on 3.6.2014.

Therefore, this writ petition is allowed restraining the revenue officials from making any tax deduction at source under Section 194 L.A. with respect to the compensation paid to the petitioners. But, however, leaving liberty to the Revenue Authorities to deduct such tax under Section 194 L.A., wherever applicable.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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