

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936

WP(C).No. 6042 of 2011 (E)

PETITIONER:

P.P.LAKSHMI, W/O. LATE SREEDHARAN,
MADHAVI NIVAS, KANDOTH P.O.,
KOTHAYIMUKKU, PAYYANNUR,
KANNUR DISTRICT.

BY ADVS.SRI.M.SASINDRAN
SRI.ARUN CHANDRAN

RESPONDENTS:

1. THE SPECIAL TAHSILDAR (L.A.),
LAND ACQUISITION, EZHIMALA
NAVAL ACADEMY PROJECT
PAYYANNUR - 670 307.

2. THE DISTRICT COLLECTOR,
KANNUR-670 001.

BY GOVERNMENT PLEADER SRI. T.R. RAJESH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26-02-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) EXHIBITS

- EXHIBIT P1 : A TRUE COPY OF THE APPLICATION FILED BY THE PETITIONER'S MOTHER IN RESPECT OF THE LAND IN R.S. NO. 285/2 UNDER SECTION 28A OF THE ACT.
- EXHIBIT P2 : A TRUE COPY OF THE JUDGMENT DATED 22.01.2005 IN LAR 224 OF 2001 OF THE SUB COURT, PAYYANNUR
- EXHIBIT P3 : A TRUE COPY OF THE ORDER NO. D. DIS. C.2730/05 DATED 07.03.2009 PASSED BY THE 1ST RESPONDENT.
- EXHIBIT P4 : A TRUE COPY OF THE APPLICATION DATED 08.04.2009 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- EXHIBIT P5 : A TRUE COPY OF THE ORDER NO. D. 928/09/D.DIS. DATED 18.10.2010 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P6 : TRUE COPY OF THE APPLICATION FILED BY THE PETITIONER DATED 09.07.1995.
- EXHIBIT P7 : TRUE COPY OF THE ORDER DATED 17.02.2004.

RESPONDENT(S) EXHIBITS

- EXHIBIT R1(a) : TRUE COPY OF JUDGMENT IN LAR NO. 140/08 DATED 13.01.2010.

/TRUE COPY/

P.A. TO JUDGE.

V. CHITAMBARESH, J

WP(C) NO. 6042 OF 2011

Dated this the 26th day of February, 2015

JUDGMENT

An application for redetermination of the compensation amount under Section 28A of the Land Acquisition Act, 1894 can as well be on the basis of an award passed on a reference under Section 28A(3) of the said Act. The issue is covered by the decision in **District Collector Vs. Muhammed Kunhi [2012 (4) KLT 360 (DB)]**. The first respondent therefore erred in rejecting Ext.P1 application filed under Section 28A(1) of the Act by Ext.P3 order for the reason that Ext.P2 judgment was not in a reference under under Section 18 of the Act. Ext.P5 order rejecting Ext.P4 application filed under Section 28A(3) of the Act cannot also stand scrutiny in the eye of law for the same reason.

2. It is true that LAR No. 140/2008 on the file of the court of the Subordinate Judge of Payyannur was pending at the instance of the petitioner on a reference made under Section 28A(3) of the Act. But it is now discernible that the said reference pertains to the property in RS No. 236/1A1A1A

WP(C) No. 6042/2011

whereas the property involved in Exts.P1 and P4 applications are in RS No. 285/2 of Ramanthali village. The fact that LAR No. 140/2008 was dismissed as not pressed will not prejudice the right of the petitioner in pursuing of Exts.P1 and P4 applications in relation to a different property.

3. Exts.P3 and P5 orders are quashed and the first respondent is directed to reconsider Ext.P1 application in accordance with law. The same shall be done within a period of one month from the date of receipt of copy of this judgment.

The Writ Petition is disposed of.

**V. CHITAMBARESH
JUDGE**

ncd