

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

THURSDAY, THE 12TH DAY OF AUGUST 2015/23RD SRAVANA, 1937

WP(C).No. 3186 of 2015 (W)

PETITIONER:

**JAIRAM, AGED 51 YEARS
S/O.K.K.RAMANKUTTY NAIR,
"ABHAYAM", PALATT ROAD
OTTAPALAM**

**BY ADVS.SRI.SANTHEEP ANKARATH
SRI.YJAFAR KHAN**

RESPONDENTS:

- 1. DISTRICT COLLECTOR,
PALAKKAD
678001**
- 2. SPECIAL TAHSILDAR(LA)
FOR PALAKKAD, GL(I), PALAKKAD
PIN-678001**

BY SR. GOVERNMENT PLEADER SRI. THOMAS JOHN AMBOOKEN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
12-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

DCS

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT P1: TRUE COPY OF THE JUDGMENT DATED 29.01.2001 IN LAR.NO.4/1998 PASSED BY THE SUBORDINATE JUDGE'S COURT, OTTAPALAM
- EXT P2: TRUE COPY OF THE APPLICATION FILED UNDER SECTION 28(A) OF THE LAND ACQUISITION ACT OF 1894 FOR REDETERMINATION BEFORE THE 2ND RESPONDENT DATED 28.04.2001 ALONG WITH ITS POSTAL RECEIPT
- EXT P3: TRUE COPY OF THE APPLICATION FILED UNDER SECTION 28(A) OF THE LAND ACQUISITION ACT OF 1894 FOR REDETERMINATION BEFORE THE 1ST RESPONDENT DATED 28.04.2001 ALONG WITH ITS POSTAL RECEIPT
- EXT P4: TRUE COPY OF THE JUDGMENT DATED 06.11.2012 IN WP(C) NO.23701/2012 PASSED BY THIS HONOURABLE COURT.
- EXT P5: TRUE COPY OF THE AFFIDAVIT AND PETITION FILED AS IA.NO.6671/2013 IN WP(C) NO.23701/2012 PRAYING FOR EXTENSION OF TIME FOR COMPLIANCE OF THE JUDGMENT AND DATED 20.05.2013
- EXT P6: TRUE COPY OF THE ORDER DATED 28.05.2013 IN IA.NO.6671/2013 IN W.P.(C).NO.23701/2012 PASSED BY THIS HONOURABLE COURT.
- EXT P7: TRUE COPY OF THE LAWYER NOTICE DATED 03.04.2014 ISSUED ON BEHALF OF THE PETITIONER TO THE 2ND RESPONDENT
- EXT P8: TRUE COPY OF NOTICE DATED 15.01.2013 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER'S FATHER
- EXT P9: TRUE COPY OF NOTICE DATED 18.02.2013 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER'S FATHER
- EXT P10: TRUE COPY OF LETTER DATED 7.4.2014 ISSUED BY THE 2ND RESPONDENT.
- EXT P11: TRUE COPY OF THE NOTICE DATED 21.05.2014 ISSUED ON BEHALF OF THE PETITIONER TO THE 2ND RESPONDENT.
- EXT P12: TRUE COPY OF THE ORDER NO.D 869/2012 DATED 20.1.2014 ISSUED BY THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS:-

/TRUE COPY/

P.A. TO JUDGE

DCS

V. CHITAMBARESH, J

W.P.(C). NO. 3186 OF 2015

Dated this the 12th day of August, 2015

JUDGMENT

Exts. P2 and P3 applications are seen despatched by post on 30.04.2001. Ext. P2 application was addressed to the second respondent and Ext. P3 application to the first respondent. Section 28A(1) of the Land Acquisition Act, 1894 is seen invoked in the applications. The applications are filed on the basis of Ext. P1 judgment dated 29.01.2001.

2. Exts. P2 and P3 applications show that it is supported by a certified copy of Ext. P1 judgment. The time taken for obtaining the certified copy of judgment is liable to be excluded. It is reasonable to think that Exts. P2 and P3 applications on the basis of Ext. P1 judgment are filed in time.

3. There was a direction in Ext. P4 judgment by this Court to dispose of Exts. P2 and P3 applications. Subsequently Ext. P5 interlocutory application was filed therein by the second respondent for enlargement of time to comply with the directions. The same was allowed by Ext. P6 order wherein the

respondents did not dispute the receipt of Exts. P2 and P3 applications.

4. Exts. P8 and P9 notice of hearing are seen addressed to the petitioner. The same is for the purpose of deciding Exts. P2 and P3 applications. But Ext. P12 order states that no such applications were filed by the petitioner. Ext. P12 order also reflects that the file relating to the acquisition in question is not traceable in the office.

5. The conduct of the respondents shows that the related file is missing in the office for a disposal on merits. But that should not prejudice the petitioner for having a redetermination of compensation. The postal receipts coupled with the hearing notices fortify the contention of the petitioner that Exts. P2 and P3 applications were filed in time. The respondents had no case when Ext. P5 interlocutory application was filed for enlargement of time that Exts. P2 and P3 applications were not received.

6. I quash Ext. P12 order and direct the second respondent to consider Ext. P2 application. The petitioner shall produce a copy of Ext. P2 application along with a copy of judgment before the second respondent. The second respondent shall consider Ext. P2 application on merits. The

applicants in Ext. P2 application shall be put on notice and heard in the exercise. The legal heirs of anyone of the deceased applicants shall also be put on notice.

The writ petition is disposed of.

**V. CHITAMBARESH
JUDGE**

DCS