

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

THURSDAY, THE 16TH DAY OF JULY 2015/25TH ASHADHA, 1937

WP(C).No. 3855 of 2014 (F)

PETITIONERS:

- 1. SANKUNNI K P, AGED 61 YEARS
S/O.KUNHU KUTTAN VAIDYAR, KUTTIPPALA PARAMBIL HOUSE
AREEKKAD P.O., THALAKADATHUR, TIRUR-3.**
- 2. KUNHI MOHAMMED, AGED 61 YEARS
S/O.MAMMUTTY, MANDAKATHINGAL HOUSE, AREEKKAD P.O.
THALAKKADATHUR, TIRUR-3.**
- 3. P.J.BABU
PUTHUPARAMBIL HOUSE, PANAGURAM P.O., ANGADIPPURAM.**
- 4. A.VIJAYAKUMAR, AGED 57 YEARS
S/O.A.NARAYANAN NAIR, ALLATH HOUSE, ANGADIPPURAM.**
- 5. LALITHA, AGED 38 YEARS
W/O.PRAJESH, VATTAKADATHIL HOUSE, ANGADIPPURAM P.O.**
- 6. DEVIDAS POTTEKKAT, AGED 61 YEARS
S/O.P.K.NARAYANAMENON, ARJUNA, ANGADIPPURAM.**
- 7. N.P.VASANTHI, AGED 52 YEARS
D/O.M.P.KESAVA MENON, ARJUNA, ANGADIPPURAM.**
- 8. V.K.PADMINI BAI, AGED 61 YEARS
KULANGARA (H), ANGADIPPURAM P.O.**
- 9. K.PRABHAKARAN, AGED 70 YEARS
S/O.N.APPUKUTTAN NAIR, KARTHIYATTIL HOUSE
ANGADIPPURAM.**
- 10. MUJEEB N.
S/O.HASSAN KUTTY HAJI, NACHIYANGAL (H), AREEKKAD
THALAKADATHUR P.O., TIRUR-3.**
- 11. NOUFAL M., AGED 26 YEARS
S/O.KUNHI MOHAMMED, MANDAKATHINGAL (H), AREEKKAD
THALAKADATHUR P.O., TIRUR-3.**
- 12. K.RAMACHANDRAN AGED 83 YEARS
S/O.GOPALAN THARAKAN, MAMTA, ANGADIPPURAM P.O.**

13. **GOPINATHAN A.K. AGED 49 YEARS**
S/O.KESAVAN NAIR, ARIpra (H), THIRUKAD P.O.

14. **A.KESAVAN NAIR**
ARIpra (H), THIRUKAD P.O.

15. **P.UNNIKRISHNAN, AGED 69 YEARS**
S/O.C.T.GOVINDAN THARAKKAN, AASHIRWAD
ANGADIPPURAM P.O.

16. **BASHEERUDEEN T.T.**
S/O.SAIDALI MAULAVI, THONNAM THODI (H)
MANATHUMANGALAM, PERINTHALMANNA P.O.

BY ADVS.SRI.DEVAN RAMACHANDRAN
SRI.ADARSH KUMAR
SRI.K.M.ANEESH
SRI.K.SANTHOSH KUMAR (KALIYANAM)
SRI.S.NIKHIL SANKAR

RESPONDENTS:

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1. **UNION OF INDIA**
REPRESENTED BY SECRETARY
MINISTRY OF ROAD TRANSPORT AND HIGHWAYS, 5TH FLOOR
TRANSPORT BHAVAN, 1, SANSAD MARG
GOKUL NAGAR, SANSAD MARG ROAD AREA, NEW DELHI - 110 001
 2. **STATE OF KERALA**
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM, PIN-695001.
 3. **THE DIRECTOR GENERAL (ROAD DEVELOPMENT)**
MINISTRY OF ROAD TRANSPORT AND HIGHWAYS
GOVERNMENT OF INDIA, TRANSPORT BHAVAN, 1
PARLIAMENT STREET, NEW DELHI-110 001.
 4. **THE MINISTRY OF RAILWAYS**
REPRESENTED BY ITS CHAIRMAN, RAIL BHAVAN, RAFI MARG
NEW DELHI-110 001.
 5. **THE ROADS AND BRIDGES DEVELOPMENT CORPORATION**
KERALA REPRESENTED BY ITS MANAGING DIRECTOR
2ND FLOOR, PREETHI BUILDING, M.V.ROAD
PALARIVATTOM, KOCHI-682025.
 6. **THE CHIEF ENGINEER**
PWD- DESIGN AND ADMINISTRATION
PUBLIC OFFICE BUILDING, P.O.MUSEUM
THIRUVANANTHAPURAM - 695 001
 7. **THE SUPERINTENDING ENGINEER**
PWD, NATIONAL HIGHWAYS, (NH)
NORTH CIRCLE, OPP. TO HEAD POST OFFICE, MANACHIRA
CALICUT - 673 001

WP(C).No. 3855 of 2014 (F)

- 8. THE CHIEF ENGINEER
CONSTRUCTION, SOUTHERN RAILWAY, COCHIN
PIN-682016.**
- 9. ASSISTANT EXECUTIVE ENGINEER
PUBLIC WORKS DEPARTMENT, NH SUB DIVISION
PERINTHALMANNA - 679 322**
- 10. NATIONAL HIGHWAY AUTHORITY OF INDIA
REPRESENTED BY ITS SECRETARY, DWARKA SECTOR 10
DWARKA, NEW DELHI - 110 001**

*** ADDL. R11 IS IMPEADED**

- 11. SPECIAL TAHASILDHAR, LA (GENERAL)
MALAPPURAM**

*** ADDL. R11 IS IMPEADED AS PER ORDER DATED 07.04.2015 IN I.A. NO.
4951/2015**

**R1 BY ADV. SRI.P.PARAMESWARAN NAIR, ASG OF INDIA
R1 & R3 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R2, R6, R7, R9, R11 BY GOVERNMENT PLEADER SRI. GIKKU JACOB
R4 & R8 BY ADVS. SRI.N.B.SUNIL NATH, SC, RAILWAYS
SRI.C.S.DIAS,SC, RAILWAYS
SRI.THOMAS ANTONY
R5 BY ADV. SRI.M.VIJAYA KUMAR, SC, RBDCK**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
16-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

DCS

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 : TRUE COPY OF THE ORDER G.O.(RT)NO.559/2012/PWD DT.THIRUVANANTHAPURAM 31-3-2012.**
- EXHIBIT P2 : TRUE COPY OF THE LETTER F.NO.RW/NH-36092/1/12-S&R(B) DT.14-9-2012 ISSUED BY THE CHIEF ENGINEER, FOR DIRECTOR GENERAL (ROAD DEVELOPMENT) AND SPECIAL SECRETARY.**
- EXHIBIT P3 : TRUE COPY OF THE COMMON JUDGMENT DT.6-12-2012 IN WPC 8982/2012 AND WPC 9793/12 OF THIS HONOURABLE COURT.**
- EXHIBIT P4 : TRUE COPY OF THE REPRESENTATION FILED BEFORE THE SPECIAL TAHSILDAR, LAND ACQUISITION, MALAPPURAM DT.20-9-2013.**
- EXHIBIT P5 : TRUE COPY OF THE ORDER G.O.(RT)NO.73/2011/PWD DT.17-1-2011 ISSUED BY THE ADDITIONAL SECRETARY TO GOVERNMENT.**
- EXHIBIT P6 : TRUE COPY OF THE MANUAL OF SPECIFICATIONS AND STANDARDS OF THE NATIONAL HIGHWAY AUTHORITY.**
- EXHIBIT P7 : TRUE COPY OF THE SKETCH PERTAINING TO THE PROPOSED RAIL OVER BRIDGE.**
- EXHIBIT P8 : TRUE COPY OF THE STATEMENT FILED BY STATE OF KERALA IN WPC 9793/2012.**
- EXHIBIT P9 : TRUE COPY OF THE RTI APPLICATION DT.22-8-2013.**
- EXHIBIT P10 : TRUE COPY OF THE COMMUNICATION DT.13-9-2013 MADE BY THE R5.**
- EXHIBIT P11 : TRUE COPY OF THE RELEVANT PORTION OF THE PROJECT REPORT PERTAINING TO THE IMPUGNED ROB PROJECT.**
- EXHIBIT P11A : TRUE COPY OF THE RTI APPLICATION DATED 22.11.2011**
- EXHIBIT P12 : TRUE COPY OF THE REPLY MADE BY R9 DT.23-11-2011.**
- EXHIBIT P13 : TRUE COPY OF THE RTI APPLICATION DT.20-3-2011.**
- EXHIBIT P14 : TRUE COPY OF THE R5'S COMMUNICATION DT.28-4-2012.**
- EXHIBIT P15 : TRUE COPY OF THE COMMUNICATION ISSUED UNDER THE LAND ACQUISITION ACT 1984, INTIMATING THE PETITIONERS ABOUT THE ACQUISITION PROCEEDINGS DT.8-10-2013.**

WP(C).No. 3855 of 2014 (F)

**EXHIBIT P16 : TRUE COPY OF THE COMMUNICATION DATED 19.03.2015 ISSUED BY
THE SPECIAL TAHSILDAR, LA (GENERAL), MALAPPURAM**

**EXHIBIT P17 : TRUE COPY OF COMMUNICATION DATED 29.5.2015 ISSUED BY
SPECIAL TAHSILDAR L.A. (GENERAL) MALAPPURAM**

RESPONDENT(S)' EXHIBITS:-

EXHIBIT R11(a) : TRUE COPY OF G.O. (RT) NO. 4253/14/RD DATED 01.09.2014

/TRUE COPY/

P.A. TO JUDGE

DCS

V. CHITAMBARESH, J

W.P.(C). No. 3855 of 2014

Dated this the 16th day of July, 2015

JUDGMENT

The acquisition is for the purpose of constructing an approach road to the Railway Over Bridge. The physical possession of the property had long ago been taken. It transpires that an award was also passed on 29.05.2015.

2. Such an award is only a tentative assessment of compensation. This is subject to further determination under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The right of the petitioners under the Act aforesaid is however safeguarded.

No further directions are warranted. The writ petition is disposed of.

**V. CHITAMBARESH
JUDGE**