IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 13TH DAY OF FEBRUARY 2015/24TH MAGHA, 1936

WP(C).No. 4661 of 2015 (G)

PETITIONER(S):

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1. SADANANDAN AGED 62 YEARS,
   S/O. KUMARAN, KARIMPADATHU THUNDIYIL,
   CHERANALLOOR, ERNAKULAM - 682 034.

2. SUMESH K.S, S/O. SADANANDAN,
   AGED 32 YEARS, KARIMPADATHU THUNDIYIL,
   CHERANALLOOR, ERNAKULAM - 682 034.

3. SUCHITHRA K.S., D/O. SADANANDAN,
   AGED 28 YEARS, KARIMPADATHU THUNDIYIL,
   CHERANALLOOR, ERNAKULAM - 682 034.

4. LEELA, AGED 65 YEARS, W/O. VISWAMBARAN,
   MARANGATTU HOUSE, TCC KADAVU ROAD
   ELOOR EAST, UDYOGAMANDAL P.O, PIN - 683 501.

5. MANJU JOJO, AGED 37 YEARS,
   W/O. JOJO SEBASTIAN, PANACKAL HOUSE,
   MANJUMMAL P.O., ERNAKULAM - 683 501.

BY ADVS.SRI.SANTHOSH G. PRABHU
SRI.S.KANNAN
SMT.A.ASWATHY
SRI.K.JANARDHANA SHENOY

RESPONDENT(S):

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1. SATE OF KERALA,
   REPRESENTED BY ITS SECRETARY,
   DEPARTMENT OF REVENUE,
   KERALA GOVERNMENT SECRETARIAT,
   THIRUVANANTHAPURAM-695 001.

2. THE DISTRICT COLLECTOR,
   CIVIL STATION, KAKKANADU, KOCHI - 682 030.

3. THE SPECIAL TAHSILDAR (LAND ACQUISITION),
   NATIONAL HIGHWAY NO. II, ALUVA, ERNAKULAM -683 101.

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WP(C).No. 4661 of 2015 (G)
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4. THE EXECUTIVE ENGINEER,
WATER RESOURCE (MAJOR IRRIGATION) DIVISION,
CIVIL STATION, KAKKANADU, KOCHI - 682 030.

5. THE COMMISSIONER OF INCOME TAX (TDS),
OFFICE OF THE COMMISSIONER OF INCOME TAX,
C.R. BUILDING, I.S. PRESS ROAD, KOCHI- 682 018.

R1 TO R4 BY GOVERNMENT PLEADER SMT.LILLY LESSILY
R5 BY SRI.JOSE JOSEPH, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).No. 4661 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT-P1- TRUE COPY OF LAND TAX RECEIPT DATED 12/10/2011 OF THE PROPERTY OF THE PETITIONERS 1 TO 3.

EXHIBIT-P2- TRUE COPY OF THE LAND TAX RECEIPT DATED 27/04/2013 OF THE PROPERTY OF THE PETITIONERS 1 TO 3.

EXHIBIT-P3- TRUE COPY OF LAND TAX RECEIPT DATED 10/12/2013 OF THE PROPERTY OF THE 4TH PETITIONER.

EXHIBIT-P4- COPY OF LAND TAX RECEIPT DATED 13/12/2013 OF THE PROPERTY OF THE 5TH PETITIONER.

EXHIBIT-P5- TRUE COPY OF THE NOTICE DATED 16/11/2013 ISUSED BY THE 3RD RESPONDENT TO THE PETITIONERS 1 TO 3.

EXHIBIT-P6- TRUE COPY OF THE NOTICE DATED 16/11/2013 ISUSED BY THE 3RD RESPONDENT TO THE 4TH PETITIONER.

EXHIBIT-P7- TRUE COPY OF THE NOTICE DATED 16/10/2014 ISUSED BY THE 3RD RESPONDENT TO THE PETITIONERS 1 TO 3.

EXHIBIT-P8- TRUE COPY OF THE NOTICE DATED 16/10/2014 ISUSED BY THE 3RD RESPONDENT TO THE 4TH PETITIONER

EXHIBIT-P9- TRUE COPY OF THE NOTICE DATED 16/10/2014 ISUSED BY THE 3RD RESPONDENT TO THE 5TH PETITIONERS.

EXHIBIT-P10- TRUE COPY OF THE FORM 16 A DATED 04/07/2014 ISSUED BY THE 3RD RESPONDENT TO THE IST PETITIONER.

EXHIBIT-P11- TRUE COPY OF THE FORM 16 A DATED 04/07/2014 ISSUED BY THE 3RD RESPONDENT TO THE 4TH PETITIONER.

EXHIBIT-P12- TRUE COPY OF THE FORM 16 A DATED 04/07/2014 ISSUED BY THE 3RD RESPONDENT TO THE 5TH PETITIONER.

EXHIBIT-P13- COPY OF THE JUDGMENT DATED 23/08/213 PASSED BY THIS HONBLE COURT IN W.P(C) 20572/2013.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.4661 OF 2015 (G)

Dated this the 13th day of February, 2015

J U D G M E N T

The petitioners, who were entitled to compensation in terms of the Land Acquisition Act, have approached this Court seeking a direction to the respondents not to deduct tax at source in terms of Section 194 LA of the Income Tax Act. It is the case of the petitioners that the compensation amounts were payable to them pursuant to a negotiated settlement, and hence, it would not be a payment that attracted the provisions of Section 194 LA of the Income Tax Act for the purposes of tax deducted at source. I note that, although, the issue as to whether, in such cases, the deduction of tax under Section 194 LA of the Income Tax Act has to be effected, has already been decided in Ext.P13 judgment, in the instant case, the tax amounts have already been deducted and paid over to the Income Tax Department. In that view of the matter, I feel the remedy of the petitioners now lies in filing returns under the Income tax Act for the assessment year in question, and claiming credit of the tax deductions effected by the respondents while paying the compensation amount to them for the year in question. If the petitioners file the returns under the Income Tax Act, the issue shall be considered by the assessing authority under the said Act and the benefit of Ext.P13 judgment shall be extended to the petitioners as well.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp