

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

THURSDAY, THE 4TH DAY OF JUNE 2015/14TH JYAISHTA, 1937

WP(C).No. 5694 of 2015 (J)

PETITIONER(S):

P.V.SUDHAKARAN, AGED 51 YEARS
S/O.LATE P.P.KUNHIRAMAN, PUTHIYAKANDOM P.O.
CHERUVATHUR, KASARAGOD DISTRICT.

BY ADV. SRI.V.N.RAMESAN NAMBISAN

RESPONDENT(S):

1. THE DISTRICT COLLECTOR
KANNUR, PIN-670001.
2. THE SPECIAL TAHSILDAR (LAND ACQUISITION)
NAVAL ACADEMY, PAYYANNUR (NOW AT THALASSERY)
PIN-670 104.

R BY GOVERNMENT PLEADER SRI.THOMAS JOHN AMBOOKEN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
04-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 5694 of 2015 (J)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT. P1 : TRUE COPY OF THE APPLICATION DT.16-4-1998 UNDER SEC.28A(3) OF
THE LAND ACQUISITION ACT SUBMITTED BY THE PETITIONER BEFORE
THE SECOND RESPONDENT DT. 16-4-1998.

EXT. P2 : TRUE COPY OF THE REMINDER LETTER SENT BY THE PETITIONER ON
6-8-2007.

EXT. P3 : TRUE COPY OF THE ORDER NO.D.DIS.1424/07A DT.28-6-2008 ISSUED BY
THE SECOND RESPONDENT.

EXT. P4 : TRUE COPY OF THE JUDGMENT IN WPC 22480/08 DT.4-8-2008 OF THIS
HON'BLE COURT.

EXT. P5 : TRUE COPY OF THE LETTER NO.REF.D.1095/08 DT.9-9-2008 ISSUED BY
THE SECOND RESPONDENT.

EXT. P6 : TRUE COPY OF THE REJECTION ORDER REF.275/97 DT.9-7-1988 ISSUED
BY SECOND RESPONDENT.

EXT. P7 : TRUE COPY OF THE APPLICATION UNDER SEC.28A(3) DT.15-9-2008 FILED
BY THE PETITIONER BEFORE THE SECOND RESPONDENT.

EXT. P8 : TRUE COPY OF THE ORDER NO.D.DIS 1569/08/D DT.3-2-2009 ISSUED BY
THE FIRST RESPONDENT.

RESPONDENT(S)' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

V.CHITAMBARESH, J.

W.P (C) No.5694 of 2015

Dated this the 4th day of June, 2015

J U D G M E N T

Ext.P1 application filed for reference under the Land Acquisition Act, 1894 inter alia reads as follows:-

“Subsequently under Section 28A of the Land Acquisition, this petitioner has applied before the Land Acquisition Officer to re-determine the compensation amount. Upon enquiry again a meagre sum of Rs.14545/- was awarded to this petitioner which he has received on 30.3.1998 marking his protest.

The amount thus awarded is quite meagre and insufficient when compared to the land value and value of improvements. No interest also is seen awarded to this petitioner. More over no enhancement is seen given to the value of improvements and structure. Hence the petition.

2. A reading of the above would amply reveal that the petitioner has invoked Section 28A(3) of the Land Acquisition Act, 1894. This is because the petitioner specifically mentioned about the re-determination of the compensation already made under

Section 28A(1) of the Land Acquisition Act, 1894. The second respondent therefore erred in treating Ext.P1 application as one filed under Section 18 of the Land Acquisition Act, 1894 merely because typographical error crept in. Exts.P6 and P8 orders rejecting Ext.P1 application on the premise that it was not filed under Section 28A(3) of the Land Acquisition Act, 1894 are quashed.

3. The second respondent is directed to reconsider Ext.P1 application strictly on merits in terms of Section 28A(3) of the Land Acquisition Act, 1894. The needful shall be done with notice to the petitioner within a period of two months from today.

The Writ Petition is disposed of.

Sd/-
V.CHITAMBARESH,
Judge.

nj.