

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 6TH DAY OF NOVEMBER 2015/15TH KARTHIKA, 1937

WP(C) .NO. 9760 OF 2012 (T)

PETITIONERS:

1. PONNUSWAMY CHETTIYAR, AGED 74 YEARS,
THAI VEEDU, THAMARAKULAM, KOLLAM.690530.
2. SWAMINATHAN,
-DO-
3. SHANMUGHASUNDARI,
-DO-
4. RADHALAKSHMI,
-DO-
5. BABY,
(PETITIONERS 2 TO 5 ARE REPRESENTED BY
POWER OF ATTORNEY HOLDER PETITIONER NO.1)

BY ADV. SRI.N.N.ARUN BECHU

RESPONDENTS:

1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO DEPARTMENT OF REVENUE,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM
PIN-695001.
2. DISTRICT COLLECTOR,
COLLECTORATE, KOLLAM, PIN-691013.
3. SPECIAL TAHSILDAR,
LAND ACQUISITION, KOLLAM, PIN:691013.

BY GOVERNMENT PLEADER, SRI. V.K. RAFAEK

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
06-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1 : COPY OF AWARD NOTICE DATED 30.5.1989.

EXT.P2 : COPY OF COMPROMISE APPLICATION SUBMITTED BEFORE
SUB COURT, KOLLAM DATED 31.7.2003.

EXT.P3 : COPY OF REFERENCE LETTER DATED 4.6.1990.

EXT.P4 : COPY OF APPLICATION SUBMITTED BEFORE SUB COURT,
KOLLAM DATED 25.2.2011.

EXT.P5 : COPY OF COMMUNICATION ISSUED BY SUB COURT,
KOLLAM DATED 15.7.2011.

EXT.P6 : COPY OF ORDER OF TALUK LEGAL SERVICE COMMITTEE,
DATED 25.1.2012.

EXT.P7 : COPY OF COMPLAINT SUBMITTED BEFORE SECOND
RESPONDENT DATED 7.2.2009.

EXT.P1 : COPY OF COMPLAINT SUBMITTED BEFORE SECOND
RESPONDENT DATD 13.3.2012.

RESPONDENTS' EXHIBITS : NIL

//TRUE COPY/

P.A. TO JUDGE

DST

K. HARILAL, J.

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W.P. (C) No.9760 of 2012

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Dated this the 6th day of November, 2015

J U D G M E N T

The petitioners are legal heirs of the late P.Smt.Subalakshmi Ammal. The land belonging to late P.Smt.Subalakshmi Ammal, situated in survey number 8156/A3 and 8156/A2 was acquired by the State for the purpose of constructing a bridge across the canal. 91 Ares of land in survey number 8156/A3 was acquired and an award of Rs.60,980.59 was passed by the 3rd respondent. So also, an extent of 1.40 ares was acquired in 8156/A2 and for that an amount of Rs.89,388.08 was awarded by the 3rd respondent. The award was passed in LAA3/1456 as award No.157/88-8 on 30.05.1989. The grievance of the petitioners is that pursuant to the passing of the award, the claimant accepted the amount under protest and an application for reference was filed

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before the 3rd respondent, within the time on 29.07.1989, requesting to refer the case to the Sub Court under Section 18 of the Land Acquisition Act, 1894. But, the same has not been referred to the Sub Court, despite the long lapse of more than 25 years. According to the petitioners, the application for reference was made to the officer through registered post on 29.07.1989, when she did not receive any communication from the Court despite the lapse of more than 20 years, she made an enquiry at the court and it was informed her that the reference Court has not yet received files in question. When she made enquires at the office of the 3rd respondent, she was told that the records were already sent. She continued with her enquiry for a long period, during the course of which the Authorities reiterated what they had told her earlier. But, she never received any communication

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from the court or the 3rd respondent. While so, the claimant, Smt. P.Smt.Subalakshmi Ammal passed away and thereafter, the 1st petitioner approached the 3rd respondent with a request to serve him a copy of the reference letter as well as a plan of the acquired land. Though, the 1st petitioner was made to await on this request for a long time, finally, on 15.07.2009, he was supplied with Ext.P3, the copy of the reference letter. After the receipt of Ext.P3, the 1st petitioner again approached the Sub Court and again he was told that the file in question has not yet reached the Court. Subsequently, the 1st petitioner submitted Ext.P4 application, before the Sub Court and the Court by Ext.P5 communication informed that such reference request, as referred in Ext.P4 was not forwarded to the Sub Court. Thereafter, even though, the petitioners approached Taluk Legal Service Authority, Kollam to

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redress their grievance, the 3rd respondent has not appeared in the hearing held by the Taluk Legal Service Authority and in that circumstance the Taluk Legal Service Authority passed Ext.P6 Order, directing the petitioners to approach the 2nd respondent. Pursuantly, the petitioner submitted Ext.P7 representation, before the 2nd respondent and the 2nd respondent has not taken any action on Ext.P7. This is the grievance projected in this Writ Petition.

2. Heard the learned counsel for the petitioners and the learned Government Pleader.

3. The learned Government Pleader, on instruction, submits that the original file of the acquisition proceedings of the property in question is not available in the office of the 3rd respondent. But, the Reference Register shows that the reference application filed by the claimant has been received in

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the office of the 3rd respondent and the same is registered in the Reference Register as 908/63 and 9011/64 on 29.7.1989. It is also admitted that Ext.P3 is the copy of the covering letter sent to the Sub Court, Kollam. No other details or records are available in the office of the 3rd respondent.

4. Going by the sequence of events, as averred in the writ petition, it is seen that the deceased Subbalakshmi Ammal continued with her enquiry for quite long time and thereafter the petitioners are continuing with their efforts to redress their grievance from 1989 onwards. It has come out in evidence by Ext.P3 that the late Subbalakshmi Ammal had filed a reference application under protest and the same was got registered in the Reference Register on 29.7.1989. After the submission of the reference application, the claimant has no role at all till the receipt of the notice

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from the concerned Sub Court. The absence of such a notice from the Sub Court made them to make an enquiry and even after the lapse of more than two decades no authority has turned up to redress their grievance and they are running from pillar to post. This Court is of the opinion that this is the high time requiring interference of the 2nd respondent, who is the competent authority under law. However, the petitioners are entitled to get their grievance redressed as reference was not made so far due to the laches from the office of the 3rd respondent and they cannot be allowed to suffer for the laches from the part of the 3rd respondent.

In this view of the matter, the 2nd respondent is directed to make an enquiry, either by himself or through an officer not below the rank of a Deputy Collector, as regards the missing of the objection dated

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29.7.1989 seeking reference that got registered in the office of the 3rd respondent, within a period of two months from today and to pass an order on Ext.P8 representation pending before him, after affording an opportunity of being heard, to the petitioners. It is needless to say, the petitioners will be duly informed of the decision also.

This writ petition is disposed of.

Sd/-

**K. HARILAL,
JUDGE**

DST

//True copy//

P.A. To Judge