

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

WP(C).No. 6584 of 2015 (W)

PETITIONER:

**MEETHALE PAKKAN CHERIYA SULAIMAN, AGED 68 YEARS
S/O.C.C.AHAMED, RESIDING AT ETTIKULAM P.O.
VIA RAMANTHALI, KANNUR DISTRICT.**

BY ADV. SRI.V.N.RAMESAN NAMBISAN

RESPONDENTS:

- 1. THE DISTRICT COLLECTOR, KANNUR
PIN - 670 001.**
- 2. THE SPECIAL TAHSILDAR (LAND ACQUISITION)
NAVAL ACADEMY, PAYYANNUR (NOW AT THALASSERY)
PIN - 670 104.**

BY SR. GOVERNMENT PLEADER SRI. THOMAS JOHN AMBOOKAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
02-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

DCS

WP(C).No. 6584 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF THE NOTICE DATED 18/10/2006 ISSUED BY THE 2ND RESPONDENT.**
- EXT.P2: TRUE COPY OF THE REPRESENTATION DATED 28/12/2007 SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT.**
- EXT.P3: TRUE COPY OF THE REJECTION ORDER NO. REF: 472/97 DATED 24/04/2001 ISSUED BY THE 2ND RESPONDENT.**
- EXT.P4: TRUE COPY OF THE APPLICATION DATED 25/09/2008 SUBMITTED BY THE PETITIONER UNDER SECTION 28A OF THE LAND ACQUISITION ACT.**
- EXT.P5: TRUE COPY OF THE REJECTION ORDER NO. D.DIS C.1414/08 DATED 19/06/2009 ISSUED BY THE 2ND RESPONDENT.**
- EXT.P6: TRUE COPY OF APPLICATION UNDER SECTION 28A (3) OF THE LAND ACQUISITION ACT, SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT ON 17/07/2009.**
- EXT.P7: TRUE COPY OF THE REJECTION ORDER REF: NO. 1803/09/G DATED 18/04/2012 ISSUED BY 2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS:-NIL

/TRUE COPY/

P.A. TO JUDGE

DCS

V. CHITAMBARESH, J

W.P.(C). NO. 6584 OF 2015

Dated this the 2nd day of June, 2015

JUDGMENT

An earlier application put in by the petitioner under Section 28A(1) of the Land Acquisition Act, 1894 was rejected by Ext. P3 order. The only reason stated therein is that the petitioner had not lodged his protest at the time of receiving the compensation amount. Such protest is necessary only for a reference under Section 18 of the Land Acquisition Act, 1894 and not for a reference under Section 28A(1) thereof.

2. Ext. P4 application again put in by the petitioner under Section 28A(1) of the Land Acquisition Act, 1894 has been rejected by Ext. P5 order. Ext. P6 application put in by the petitioner under Section 28A(3) of the Land Acquisition Act, 1894 has been rejected by Ext. P7 order. The only reason stated in Exts. P5 and P7 orders is that an earlier application put in by the petitioner stands rejected by Ext. P3 order.

3. Firstly, there has been no consideration on merits in Ext. P3 order rejecting the application earlier put in by the petitioner. Secondly, Exts. P4 and P6 applications put in by

the petitioner are on the basis of a revised judgment in a Land Acquisition Reference. An application under Section 28 of the Land Acquisition Act, 1894 is maintainable on the basis of an award passed under Section 28 of the Land Acquisition Act, 1894 as well.

4. Resultantly Exts. P5 and P7 orders are quashed. The second respondent is directed to re-consider Ext. P4 application on merits. The same shall be dealt with under Section 28A(1) of the Land Acquisition Act, 1894. The needful shall be done with notice to the petitioner. The exercise shall be completed within a period of two months from today.

The writ petition is disposed of.

**V. CHITAMBARESH
JUDGE**

DCS