

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

WP(C).No. 9755 of 2015 (T)

PETITIONER:

SHERLY, AGED 43 YEARS, D/O.KOTAKKATTU
KURIAN ANDHAPPAN, RAMANTHALY AMSOM DESOM,
P.O.RAMANTHALY - 670 308, KANNUR DISTRICT.

BY ADVS.SRI.M.SASINDRAN
SRI.P.K.SUBHASH

RESPONDENTS:

1. THE SPECIAL TAHSILDAR (LA), LAND ACQUISITION
EZHIMALA NAVAL ACADEMY PROJECT
PAYYANNUR - 670 307.
2. THE DISTRICT COLLECTOR,
KANNUR - 670 001.

BY GOVERNMENT PLEADER SRI. GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: A TRUE COPY OF THE APPLICATION FILED UNDER SECTION 28A FILED BY THE PETITIONER
- EXT.P2: A TRUE COPY OF THE ORDER NO.D.DIS.1422/06 DATED 7.3.2009
- EXT.P3: A TRUE COPY OF THE APPLICATION FILED BY THE PETITIONER UNDER SECTION 28A (3) OF THE LAND ACQUISITION ACT.
- EXT.P4: A TRUE COPY OF THE ORDER NO.D.929/09/D.DIS OF THE IST RESPONDENT

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE.

V. CHITAMBARESH, J

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Dated this the 30th day of March, 2015

JUDGMENT

An application for redetermination of compensation under Section 28A(3) of the Land Acquisition Act, 1894 can be on the basis of the following judgments:

(i) A judgment on a reference passed under Section 18 of the Land Acquisition Act, 1894.

(ii) A judgment under Section 28A(3) of the Land Acquisition Act, 1894 redetermining the compensation.

2. The authorities below erred in holding that an application under Section 28A(3) of the Land Acquisition Act, 1894 can be filed on the basis of a judgment passed under Section 18 of the said Act only. The issue is covered by the decision in **District Collector Vs. Muhammad Kunhi [2012 (4) KLT 360 (DB)]** and Exts.P2 and P4 orders militates against the dictum. I quash Exts. P2 and P4 orders rejecting the

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applications put in under Sections 28A(1) and 28A(3) of the Land Acquisition Act, 1894.

3. I direct the first respondent to reconsider Ext.P1 application filed under Section 28A(1) of the Land Acquisition Act, 1894. The same shall be done with notice to the petitioner within a period of two months from the date of production of a copy of this judgment. Every endeavour shall be made to take a decision on merits rather than non suiting the petitioner on technical grounds.

4. The petitioner shall produce a copy of the writ petition with the judgment before the first respondent for compliance.

The Writ Petition is disposed of.

**V. CHITAMBARESH
JUDGE**

ncd