

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 23RD DAY OF NOVEMBER 2015/2ND AGRAHAYANA, 1937

WP(C) .No. 15553 of 2012 (T)

PETITIONER(S) :

1. ST. PAULS ORTHODOX SYRIAN CHURCH,
PALLOM, KOTTAYAM, REPRESENTED BY ITS TRUSTEE
JOHN MATHEW, PARAKADAVILAYA THAKIDIYEL, PALLAM,
KOTTAYAM.

2. FR. PAUL P. THOMAS,
KOCHUPALAPARAPIL, VAKATHANAM, KOTTAYAM,
VICAR ST. PAUL'S ORTHODOX SYRIAN CHURCH, PALLOM,
KOTTAYAM.

3. JOHN MATHEW,
PARAKADAVILAYA THAKIDIYEL, PALLOM, KOTTAYAM,
TRUSTEE, ST. PAUL'S ORTHODOX CHURCH, PALLOM, KOTTAYAM.

BY ADV. SRI. SURIN GEORGE IPE

RESPONDENT(S) :

1. STATE OF KERALA
REPRESENTED BY SECRETARY TO REVENUE DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURM-695001.

2. SPECIAL TAHSILDAR,
LAND ACQUISITION (NH), CHANGANACHERRY,
KOTTAYAM-686101.

R2 BY ADV. SRI. G. BIJU

R1 BY GOVERNMENT PLEADER SRI. T. J. MICHAEL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 23-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER(S) EXHIBITS

- P1: TRUE COPY OF THE LAND TAX RECEIPT ISSUED BY THE
VILLAGE OFFICER, NATTAKOM
- P2: TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED BY THE
VILLAGE OFFICER, NATTAKOM
- p3 & P3(A): TRUE COPY OF THE AWARD PASSED BY THE 2ND
RESPONDENT WITH RESPECT TO THE PROPERTIES
COMPRISED IN RE.SY.NO.54/2-1 AND 54/4-1 DATED
19.4.2012
- P4 & p4(A): TRUE COPY OF THE NOTICES ISSUED UNDER SECTION 15
(3) OF THE LAND ACQUISITION ACT DATED 10.5.2012
- P5 & p5(A): TRUE COPY OF NOTICES ISSUED UNDER SECTION 13(1)
OF THE LAND ACQUISITION ACT DATED 10.5.2012
- P6: TRUE COPY OF THE ORDER OF DIOCESAN BISHOP OF KOTTAYAM
DATED 25.9.2012
- P7: TRUE COPY OF THE MINUTES OF THE GENERAL ASSEMBLY OF THE
1ST PETITIONER, PARISH DATED 4.3.2012.

RESPONDENTS' EXHIBITS : NIL

OKB

True copy

P.A. to Judge

K.HARILAL, J.

W.P.(C) No.15553 of 2012

Dated this the 23rd day of November, 2015.

JUDGMENT

The first petitioner is a constituent Parish of Malankara Orthodox Syrian Church and the second and third petitioners are the Vicar and Trustee respectively, of the first petitioner church. Under the scheme for the development/widening of Muvattupuzha-Ettumanoor-Chengannur Road (State Highway) under the Kerala State Transport Project (KSTP) acquisition proceedings were initiated by the 2nd respondent and had passed award dated 19.4.2012 to the tune of Rs.2,82,487/- in respect of land in Re-Sy.No.54/2-1 and Rs.3,64,470/- for land in Re-Sy.No.54/4-1. The Land Acquisition Officer directed the 2nd respondent to appear on 21.6.2002 to receive the amount with all documents mentioned therein. It was also specified that in the event of non appearance

on that date, the amount will be kept in Revenue deposit. The petitioners had approached the 2nd respondent and informed the fact that the Church did not have a title deed or prior deed since the Church has been established about 250 years back. Though the name of the Church has been recorded as 'Thekke Yakobaya Suriyani Church', now the official name of the church is 'St.Paul's Orthodox Syrian Church'. Thus, the name of the church is also changed by the efflux of time. Aggrieved by non disbursement of the amount to the petitioners owing to the non production of documents specified in Ext.P5, the petitioners have made a representation to the Land Acquisition Officer requesting to disburse the amount. But, he has not taken any action on the said representation also. Thus, the petitioners are aggrieved by the deposit of huge amount due to them as court deposit under Section 30 of the Land Acquisition Act.

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

3. The learned Government Pleader submits that,

in the course of proceedings under the Land Acquisition Act, notice was issued to the petitioners calling upon them to appear and to receive the amount due to them for the acquisition of the property which was under their possession on 21.6.2012. Even though they appeared before the Land Acquisition Officer, they have not produced any document to establish their title over the property as required under Ext.P5 notice and they made an assurance that the relevant documents will be produced in the course of proceedings. But, they have not produced any document to establish their title and now the amount stands as court deposit under Section 30 of the Land Acquisition Act.

4. Admittedly, the property which was in possession of the petitioners have been acquired for the widening of the aforesaid road and they were required to appear before the Land Acquisition Officer with relevant documents. None other than the petitioners have raised any claim for the said amount due to the petitioners' acquisition. But, it is their

case that since the Church was established 250 years back, the relevant documents which would show the petitioners' title and possession over the property are not available in the custody of the Church. It is also admitted that now the name of the Church is also changed by the efflux of time.

5. Going by Section 30 of the Land Acquisition Act, the statutory mandate is that if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court. But, in the instant case, neither the petitioners nor the respondents have a case that the matter stands referred to the Reference Court. In *Meher Rusi Dalal v. Union of India* [2004 (2) KLT SN 78 (C.No.95)], the Apex Court held that the person who had notice of the acquisition proceedings and who, by virtue of Section 30, is debarred from filing a reference under Section 18 cannot be allowed to apply for a reference under Section 30. An application under Section 18 should be

made within a reasonable time. Thus, as regards the delay in filing the application for reference under Section 30 is a matter left with the discretion of the authority concerned.

6. However, the petitioners are aggrieved by the non disbursement of the amount as a right to make an application seeking reference under Section 30 to the Land Acquisition Officer. If the reference is not made so far, the petitioners shall file an application seeking reference under Section 30 before the Land Acquisition Officer within a period of three months from today and in that event the Land Acquisition Officer shall take a decision in accordance with Section 30 of the Land Acquisition Act, within a further period of two months from the date of application.

This writ petition is disposed of accordingly.

K. HARILAL, JUDGE

okb.