

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 4TH DAY OF DECEMBER 2015/13TH AGRAHAYANA, 1937

WP(C).No. 13702 of 2015 (K)

PETITIONER(S):

**PRASAD S.,
AMBADI, VAZHAYILA, PERRORKADA P.O.,
THIRUVANANTHAPURAM.**

BY ADV. SRI.SUMAN CHAKRAVARTHY.

RESPONDENTS:-

- 1. THE STATE OF KERALA,
REPRESENTED BY ITS PRINCIPAL SECRETARY TO GOVERNMENT,
PUBLIC WORKS DEPARTMENT, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695 001.**
- 2. THE DISTRICT COLLECTOR,
COLLECTORATE, THIRUVANANTHAPURAM - 695 001.**
- 3. KERALA ROAD FUND BOARD,
REPRESENTED BY ITS PROJECT ENGINEER,
KOWDIAR, THIRUVANANTHAPURAM - 695 003.**
- 4. RADHAKRISHNAN, OVERSEER,
KERALA ROAD FUND BOARD, KOWDIAR,
THIRUVANANTHAPURAM - 695 003.**

**R1 & R2 GOVT. PLEADER SRI.GIKKU JACOB.
R3 & R4 BY ADV. SRI.ZAKIR HUSSAIN, SC.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 04-12-2015, ALONG WITH WP(C).NO.13703 OF 2015 AND
WP(C).NO.13704 OF 2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

rs.

WP(C).No. 13702 of 2015 (K)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1. TRUE COPY OF THE JUDGMENT DATED 23.10.2013 IN LAR 370/09.

EXHIBIT P2. TRUE COPY OF THE CERTIFICATE DATED 04.02.2013.

EXHIBIT P3. TRUE COPY OF THE PHOTOGRAPHS.

EXHIBIT P4. TRUE COPY OF THE NOTICE DATED 31.03.2015.

EXHIBIT P5. TRUE COPY OF THE REPRESENTATION DATED 04.04.2015.

RESPONDENT'S EXHIBITS:-

EXT.R3A GAZATE PUBLICATION NO.S.R.01144/2009 DATED 08/12/2009.

//TRUE COPY//

P.S. TO JUDGE

rs.

A. MUHAMED MUSTAQUE, J

**W.P.(C).Nos. 13702, 13703
& 13704 of 2015**

Dated this the 04th day of December, 2015

JUDGMENT

These writ petitioners are residents at Peroorkada, Thiruvananthapuram. They have a property abutting State Highway. That was acquired for the purpose of widening the State Highway and compensation were paid to them.

2. The petitioners approached this Court, since a notice has been issued to them by the 3rd respondent-Kerala Road Fund Board, alleging that the petitioners have encroached upon the acquired portion for road widening. The petitioners deny any encroachment. It is submitted that the boundary wall has been constructed after determining the boundary and for leaving aside the acquired portion.

3. The learned counsel for the 3rd respondent would submit that after the acquisition, the petitioners have encroached upon the acquired land and therefore, the encroachers have to be removed.

4. This Court is of the view that the District Collector, Thiruvananthapuram shall depute a competent officer to demarcate and identify the property of the petitioners after verifying the relevant records relating to the acquisition. If, after such determination, if it is found that the petitioners have encroached upon the acquired area, necessarily, the respondents are free to remove the encroachment.

In that view of the matter, the writ petition is disposed of, directing the District Collector to take appropriate decision and complete the proceedings within two months. It is made clear that the petitioners have encroached upon any portion of the acquired area, the petitioners can be evicted only after issuing necessary notice to the petitioners. Till a decision is taken by the District Collector, status quo shall be maintained.

Sd/-

**A. MUHAMED MUSTAQUE
JUDGE**