

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

WP(C).No. 17602 of 2010 (A)

PETITIONER(S):

1. C.M.JALEEL, S/O.MOIDEEN, AGED 41 YEARS,
PUNCHAKKAD, P.O.PAYYANNUR.
2. M.C.SHUKKOOR, S/O.MOIDEEN, AGED 31 YEARS,
PUNCHAKKAD, P.O.PAYYANNUR.
3. M.C.FASEERA, S/O.MOIDEEN,
AGED 26 YEARS, PUNCHAKKAD, P.O.PAYYANNUR.

PETITIONERS NO.1 TO 3 REPRESENTED BY POWER OF ATTORNEY HOLDER
M.C.NAFEESA, W/O.A.V.MOIDEEN, AGED 54 YEARS
RESIDING AT PUNCHAKKAD, POST PAYYANNUR
KANNUR DISTRICT.

BY ADV. SRI.V.N.RAMESAN NAMBISAN

RESPONDENT(S):

1. THE DISTRICT COLLECTOR, KANNUR.
2. THE SPECIAL TAHSILDAR (LAND AQUISITION),
NAVAL ACADEMY, PAYYANNUR.

R, BY SR. GOVERNMENT PLEADER SRI.THOMAS JOHN AMBOOKEN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
13-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN W.P.(C) NO.17602 of 2010

PETITIONER'S EXTS:

- EXT.P1 TRUE COPY OF APPLICATION DATED 27.12.1989 FILED BY THE PETITIONER BEFORE THE SECOND RESPONDENT UNDER SECTION 28A OF THE LAND ACQUISITION ACT.
- EXT.P2 TRUE COPY OF THE AWARD NOTICE REF. NO.429/97 DATED 23.3.1998 ISSUED BY THE SECOND RESPONDENT.
- EXT.P3 TRUE COPY OF APPLICATION DATED 17.4.1998 SUBMITTED BY THE PETITIONER BEFORE THE SECOND RESPONDENT UNDER SECTION 28A(3) OF THE LAND ACQUISITION ACT.
- EXT.P4 TRUE COPY OF RECEIPT TO SHOW THAT EXT.P3 WAS SENT BY REGISTERED POST.
- EXT.P5 TRUE COPY OF THE REJECTION ORDER NO.F429/97 DATED 9.7.1998 ISSUED BY THE SECOND RESPONDENT.

RESPONDENT'S EXTS:

- EXT.R2(a) A TRUE COPY OF THE ORDER OF REJECTION PASSED BY SPECIAL TAHSILDAR (LA), KANNUR.

//TRUE COPY//

P.S. TO JUDGE.

V.CHITAMBARESH, J.

W.P (C) No.17602 of 2010

Dated this the 13th day of July, 2015

J U D G M E N T

Ext.P1 application filed under Section 28A(1) of the Land Acquisition Act, 1894 was disposed of by Ext.P2 order. Ext.P3 application following can only be treated as one under Section 28A(3) of the Act. The fact that Section 18 of the Act was wrongly typed in Ext.P3 application should not visit the petitioner with adverse consequences. Ext.P5 order rejects Ext.P3 application as if it is one filed under Section 18 of the Land Acquisition Act. The definite case of the petitioner is that he did not receive Ext.P5 order at all. The counter affidavit filed on behalf of the respondents reveal that the office records are not available to verify the details of despatch.

2. Ext.P5 order is hence quashed and the second respondent is directed to consider Ext.P3 application under Section 28A (3) of the Land Acquisition Act. The needful shall be done with notice to the petitioner within a period of two months.

The writ Petition is disposed of.

Sd/-
V.CHITAMBARESH,
Judge.

nj.