

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

FRIDAY, THE 5TH DAY OF JUNE 2015/15TH JYAISHTA, 1937

WP(C).No. 14548 of 2014 (P)

PETITIONER(S):

M.ROMY
A.M.KASSIM, TC.1/418 (25), ALIYAR BHAVAN
KADAKAMPALLY VILLAGE, MEDICAL COLLEGE P.O.
THIRUVANANTHAPURAM-695 011.

BY ADVS.SRI.S.V.RAJAN
SRI.R.SUDHISH
SMT.M.MANJU
SRI.R.SANTHOSH (VARKALA)

RESPONDENT(S):

1. STATE OF KERALA
REPRESENTED BY THE DISTRICT COLLECTOR
THIRUVANANTHAPURAM, CIVIL STATION, KUDAPPANAKUNNU P.O.
THIRUVANANTHAPURAM-695 043, KERLA STATE.
2. THE SPECIAL TAHSILDAR
LA (GENERAL), CIVIL STATION, KUDAPPANAKUNNU P.O.
THIRUVANANTHAPURAM-695 043, KERALA STATE.

R2 BY SENIOR GOVERNMENT PLEADER SRI.THOMAS JOHN AMBOOKEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
05-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1.THE TRUE COPY OF THE NOTICE OF AWARD DATED 25/6/2012 IN LAC
NO.5/2012 ISSUED BY THE 2ND RESPONDENT

EXT.P2.THE TRUE COPY OF THE FORWARDING LETTER UNDER REF.NO.LAC-5/12
DATED 30/7/2012 SENT BY THE 2ND RESPONDENT TO THE SUB COURT,
THIRUVANANTHAPURAM ON THE FILE OF THE SECOND ADDL.SUB COURT,
THIRUVANANTHAPURAM.

EXT.P3.THE TRUE COPY OF THE PETITIONER'S APPLICATION FOR REFERENCE DATED
20/9/2012 SENT BY PETITIONER TO THE 2ND RESPONDENT

EXT.P4.THE TRUE COPY OF THE POSTAL RECEIPT DATED 22/9/2012
ADDRESSED TO THE 2ND RESPONDENT

EXT.P5.THE TRUE COPY OF THE FORM NO.17 DATED 10/2/2012 PRODUCED BY THE
2ND RESPONDENT ALONG WITH EXT.P1 LETTER.

EXT.P6.THE TRUE COPY OF THE REPORT DATED 16/2/2012 MADE BY THE
SPL.MESSENGER OF THE 2ND RESPONDENT REGARDING THE RETURN
OF NOTICE WITH REFERNECE TO EXT.P5.

EXT.P7.THE TRUE COPY OF THE REPORT DATED 29/6/2012 MADE BY THE SPECIAL
MESSENGER OF THE 2ND RESPONDENT REGARDING THE SERVICE OF EXT.P1
NOTICE.

EXT.P8. THE TRUE COPY OF THE LETTER UNDER REF.NO.A1-978/09 DATED
11/10/2012 ISSUED BY THE SECOND RESPONDENT.

RESPONDENT(S)' EXHIBITS :

EXT.R2(a) TRUE COPY OF THE LETTER NO.A1-978/09 (LAC-5/12)
DATED 11.10.2012.

//TRUE COPY//

P.S. TO JUDGE.

V.CHITAMBARESH, J.

W.P (C) No.14548 of 2014

Dated this the 5th day of June, 2015

J U D G M E N T

There is nothing to show that the petitioner was either present or was represented before the Collector at the time the Award was made. The petitioner is thus entitled to prefer an application for reference within a period of 6 months. The period has to be reckoned from the date of receipt of Section 12(2) notice or the Award of the Collector. This is discernible from Section 18(2)(b) of the Land Acquisition Act, 1894.

2. Service of notice by affixture is governed by Section 45(3) of the Land Acquisition Act, 1894. The affixture has to be done in the place where the person ordinary dwells or carries on business. The petitioner resides at Aliyar Bhavan, Kadakampally village and only his father runs the Hotel 'Moon Star'. Affixture at 'Moon Star' Hotel does not tantamount to service of notice on the petitioner as per law.

3. The petitioner is then entitled to a period of six months from the date of Award. The Award was passed on 25.6.2012 and the application was filed

on 29.9.2012. Evidently a period of 6 months had not expired to make a reference under Section 18 of the Land Acquisition Act, 1894. Ext.P8 order rejecting the application for reference is hereby quashed.

4. The second respondent is directed to entertain Ext.P3 application and make a reference under Section 18 of the Land Acquisition Act, 1894. Such reference shall be made to the court of the Subordinate Judge having jurisdiction. The needful shall be done within a period of two months from the date of receipt of a copy of this judgment.

The writ Petition is disposed of.

Sd/-
V.CHITAMBARESH,
Judge.

nj.