

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

WP(C).No. 15221 of 2014 (C)

PETITIONER(S):

K.K.ABDUL JAMAL
KARUVALIL, H M T P.O, KALAMASSERY
ALUVA, ERNAKULAM DISTRICT

BY ADVS.SRI.V.PREMCHAND
SRI.V.TEKCHAND

RESPONDENT(S):

1. THE STATE OF KERALA
REPRESENTED BY THE PRINCIPAL SECRETARY
WATER RESOURCES(C) DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM 695 001
2. THE DISTRICT COLLECTOR
ERNAKULAM DISTRICT 682 024
3. THE SPECIAL TAHSILDAR (LA)
OFFICE OF THE SPECIAL TAHSILDAR, COLLECTORATE
KAKKANAD, ERNAKULAM DISTRICT 682 024

R3 BY ADV. GOVERNMENT PLEADER SRI.GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
02-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 15221 of 2014 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1 TRUE COPY OF THE NOTICE DATED 11-12-1998 ISSUED BY THE
EXECUTIVE ENGINEER, KALAMASSERY

EXHIBIT P2 TRUE COPY OF THE CERTIFICATE DATED 17-10-2000 ISSUED FROM THE
OFFICE OF THE 2ND RESPONDENT

EXHIBIT P3 TRUE COPY OF THE ORDER DATED 16-03-2013 ISSUED BY THE
GOVERNMENT

EXHIBIT P4 TRUE COPY OF THE REPLY DATED 10-09-2013 ISSUED FROM THE
OFFICE OF THE 2ND RESPONDENT

EXHIBIT P5 TRUE COPY OF THE REPRESENTATION DATED 16-08-2013 BEFORE THE
2ND RESPONDENT

EXHIBIT P6 TRUE COPY OF THE JUDGMENT DATED 17-12-2013 IN WPC NO
31173/2013

EXHIBIT P7 TRUE COPY OF THE ORDER DATED 19-02-2014 BY THE 3RD
RESPONDENT

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

V.CHITAMBARESH, J.

W.P (C) No.15221 of 2014

Dated this the 2nd day of June, 2015

J U D G M E N T

Ext.P3 Government Order deals with a Rehabilitation Scheme in connection with land acquisition to facilitate water supply. Ext.P3 order inter alia provides the following:-

- i) Persons who possess less than 3 cents of land after the acquisition will be entitled to an alternate land.
- ii) The balance land or building remaining after acquisition can be retained by the owner if necessary.

2. The petitioner is the owner of a building and appurtenant land extending to 4.989 cents. 2.1736 cents were acquired for the water supply scheme and the balance area remaining is 2.816 cents. The petitioner was paid a sum of ₹ 2,61,587/- as compensation for the building and the portion of the land acquired. The building was sliced into two and the petitioner was paid a sum of ₹ 3,81,543/- for the whole of the building.

3. True it is that the petitioner occupied for about 6 months in the portion of the building after

it was cut into two. But that does not in any way dis-entitle the petitioner from claiming the benefit of Ext.P3 Government Order. This is because the balance extent of 2.816 cents remaining is well within the prescribed limit of 3 cents. Moreover the petitioner is entitled to retain the balance extent of the land which he has already agreed to sell it to another. The building is incapable of inhabitation any more after it was sliced into two and that was why the entire building was valued for acquisition.

4. I do not find any reason to hold that the petitioner is dis-entitled to the benefit of Ext.P3 Government Order. The respondents are directed to provide alternate land to the petitioner in accordance with Ext.P3 Government Order. The needful shall be done after hearing the petitioner within a period of three months from today.

The Writ Petition is disposed of.

Sd/-
V.CHITAMBARESH,
Judge.

nj.