

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE V. CHITAMBARESH

WEDNESDAY, THE 27TH DAY OF MAY 2015/6TH JYAISHTA, 1937

WP(C).No. 19233 of 2010 (D)

PETITIONER:

LEGAL HEIRS OF LATE K.P.V. KANNAN NAIR,

1. KOZHUMMAL PARVATHI AMMA
2. KOZHUMMAL SAVITHRI,
3. KOZHUMMAL SARASWATHI,
4. KOZHUMMAL GANGADHARAN

(ALL ARE RESIDING AT RAMANTHALI AMSOM DESOM
P.O. RAMANTHALI, KANNUR DISTRICT)

REPRESENTED BY POWER OF ATTORNEY HOLDER
K. PADMANABHAN, S/O. LATE K.P.V. KANNAN NAIR
AGED 47 YEARS, RESIDING IN RAMANTHALI AMSOM
P.O. RAMANTHALI, KANNUR DISTRICT.

BY ADV. SRI. V.N. RAMESAN NAMBIAN

RESPONDENTS:

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

BY GOVERNMENT PLEADER SRI. GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27-05-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) EXHIBITS

- EXHIBIT P1 : TRUE COPY OF APPLICATION DATED 27.12.1989 UNDER SECTION 28A OF THE LAND ACQUISITION ACT SUBMITTED BEFORE THE 1ST RESPONDENT BY LATE K.P.V. KANNAN NAIR.
- EXHIBIT P2 : TRUE COPY OF THE POSTAL ACKNOWLEDGMENT CARD FOR EXHIBIT P1 APPLICATION, RECEIVED BACK FROM THE 1ST RESPONDENT.
- EXHIBIT P3 : TRUE COPY OF THE REMINDER LETTER DATED 10.03.2004.
- EXHIBIT P4 : TRUE COPY OF POSTAL ACKNOWLEDGMENT CARD DATED 14.03.2004 FOR EXHIBIT P3 RECEIVED BACK FROM THE RESPONDENT.
- EXHIBIT P5 : TRUE COPY OF THE LETTER 17.08.2009 SUBMITTED BY THE PETITIONER UNDER THE RIGHT TO INFORMATION ACT BEFORE THE 2ND RESPONDENT.
- EXHIBIT P6 : TRUE COPY OF LETTER NO. L.DIS 1963/09 DATED 30.09.2009 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

RESPONDENT(S) EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE.

V. CHITAMBARESH, J

WP(C) NO. 19233 OF 2010

Dated this the 27th day of May, 2015

JUDGMENT

Ext.P1 application dated 27.12.1989 under Section 28A(1) of the Land Acquisition Act, 1894 is seen received by Ext.P2 acknowledgment dated 28.12.1989. Ext.P3 reminder dated 10.03.2004 is seen received by Ext.P4 acknowledgment dated 15.03.2004.

2. The counter affidavit filed by the second respondent reflects that files in the office cannot be traced out. That by itself is not a reason enough for not considering Ext.P1 application and Ext.P3 reminder. The petitioner shall produce a copy of Ext.P1 application and Ext.P3 reminder and the same shall be accepted by the second respondent as originals.

3. Ext.P1 application and Ext.P3 reminder shall thereafter be disposed of in terms of Section 28A(1) of the Land Acquisition Act, 1894. It shall be verified as to whether the petitioner had earlier invoked Section 18 of the Land Acquisition Act. I say so because the petitioner is disentitled to invoke

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Section 28A of the Land Acquisition Act if he has already invoked Section 18 thereof. Final orders on Ext.P1 application and Ext.P3 reminder shall be passed with notice to the petitioner within a period of two months.

The Writ Petition is disposed of.

**V. CHITAMBARESH
JUDGE**

ncd