

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 2ND DAY OF DECEMBER 2015/11TH AGRAHAYANA, 1937

WP(C).No. 17592 of 2014 (Y)

PETITIONER(S):

1. FATHIMA, AGED 49, W/O.ABDULLA,
PARAMBATHODI HOUSE, P.O. UGRAPURAM,
AREACODE, MALAPPURAM.
2. DOULATH, AGED 54, W/O MOOSA HAJI,
PARAMBATHODI HOUSE, P.O. UGRAPURAM,
AREACODE, MALAPPURAM.

**BY ADVS.SRI.K.S.MADHUSOODANAN
SRI.THOMAS CHAZHUKKARAN
SRI.M.M.VINOD KUMAR
SMT.K.M.RAMYA
SRI.P.K.RAKESH KUMAR
SRI.K.S.MIZVER**

RESPONDENT(S):

1. STATE OF KERALA, REPRESENTED BY
PRINCIPAL SECRETARY TO GOVERNMENT,
REVENUE (B) DEPARTMENT, GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM-695 001.
2. DISTRICT COLLECTOR, MALAPPURAM-676505.
3. SPECIAL TAHSILDAR, LAND ACQUISITION (GENERAL),
MALAPPURAM-676505.
4. GAS AUTHORITY OF INDIA LTD., 10TH FLOOR,
REVENUE TOWER, PARK AVENUE ROAD, KOCHI-11,
REPRESENTED COMPETENT AUTHORITY, KERALA.

**R1 TO R3 BY GOVERNMENT PLEADER SRI.JOE KALLIYATH
R4 BY ADV. SHRI P.B.KRISHNAN,SC
R4 BY SRI.K.ANAND (SENIOR ADVOCATE)
ADVS. SMT.LATHA KRISHNAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 02-12-2015 ALONG WITH WPC. 21381/2014, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

mbr/

WP(C).No. 17592 of 2014 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT P1: PHOTOCOPY OF FORM NO.4(B) BEARING NO.C-969/12 DATED 2.1.13.

**EXHIBIT P2: PHOTOCOPY OF THE DECLARATION PUBLISHED IN CHANDRIKA DAILY
 UNDER SEC.6 BEARING NO.G.O(RT)6299/2013/RD DATED 26.11.13.**

RESPONDENT(S)' EXHIBITS:

EXT. R4(A) : TRUE COPY OF NOTIFICATION DATED 1.10.2012.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).Nos.17592 & 21381 of 2014

.....
Dated this the 2nd day of December, 2015

J U D G M E N T

As the issue involved in both these cases is the same, they are taken up together for consideration and disposed by this common judgment.

2. The petitioners are persons whose properties were proposed to be acquired at the instance of the 4th respondent for the establishment of the Kochi-Kuttanad-Bangalore-Mangalore pipe line network of the 4th respondent which is a public project initiated by the Government of India. The undisputed facts are that, in connection with the acquisition proceedings a Notification dated 01.10.2012 under Section 4(1) of the Land Acquisition Act, 1894 was published in the Gazette on 16.10.2012. Thereafter, the Section 6 declaration was published in the manner prescribed under the said Section, the last of which publications was on 23.06.2014. The petitioners approached this Court challenging the acquisition proceedings, on the ground that, the Section 6 Notification was published subsequent to the enactment of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the 2013 Act'). In the writ petition, it is contended that inasmuch as the 2013 Act has come into force with effect from

01.01.2014, it was not open to the respondents to continue with the proceedings initiated under the erstwhile Land Acquisition Act, 1894.

2. I have heard the learned counsel for the petitioners, the learned Government Pleader appearing on behalf of the respondents 1 to 3 and the learned Senior counsel appearing on behalf of the 4th respondent.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that as per the provisions of Section 24 of the 2013 Act, where no award under Section 11 of the Land Acquisition Act, 1894 has been made at the time of coming into force of the 2013 Act, then all provisions of the 2013 Act relating to the determination of compensation have to apply to the proceedings initiated under the erstwhile Act. It is apparent therefore that in an award passed, in the present acquisition proceedings that are impugned in the writ petition, the respondents would necessarily have to take into account the principles for determining compensation as enumerated in the 2013 Act, while arriving at the compensation amounts to be paid to the petitioners in respect of the lands acquired from them. I do not find any merit in the contention of the petitioners that the entire acquisition proceedings that were initiated under the 1894

Act would lapse on account of the coming into force of the 2013 Act. Thus the writ petition is disposed by making it clear that in the award passed, in respect of the land acquisition proceedings involving the properties of the petitioners, the respondents shall ensure that the determination of compensation is in accordance with the provisions of the 2013 Act.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/2.12.15