IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 1ST DAY OF JULY 2015/10TH ASHADHA, 1937

WP(C).No. 17867 of 2015 (G)

PETITIONERS :
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1. RANI JOJI, AGED 58 YEARS,
W/O.JOJI CHERIAN, RESIDING AT DOOR NO.8/487
LIBRARY ROAD, ALUVA, ERNAKULAM DISTRICT.

2. ITHAMMA
D/O.VETTUKUNNEL VARKEY, KANJOOR ANGADI
KIZHAKUMPURAM VILLAGE, ALUVA TALUK, ERNAKULAM DISTRICT
NOW RESIDING AT PARAKA VEEDU HOUSE, DESOM WEST,
CHENGAMANAD.

BY ADVS.SRI.N.N.SUGUNAPALAN (SR.)
SRI.S.SUJIN

RESPONDENTS :
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1. THE DISTRICT COLLECTOR
ERNAKULAM 682 030.

2. SPECIAL TAHSILDAR (LA) 2,
KOCHI METRO RAIL PROJECT, CIVIL STATION,
KAKKANAD 682 030.

3. STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM 695 001.

4. THE INCOME TAX OFFICER
INCOME TAX DEPARTMENT, WARD NO.1 (4)
RANGE 1 (NON CORPORATE) 3RD FLOOR, C.R BUILDING,
I.S. PRESS ROAD, KOCHI 682 018.

R1 TO R3 BY GOVERNMENT PLEADER SMT. M.T. SHEEBA
R4 BY SRI.K.M.V.PANDALAI,

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 17867 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: **COPY OF THE AGREEMENT DATED 1.12.14.**

EXHIBIT P2: **COPY OF THE CERTIFICATE UNDER SECTION 203 OF THE INCOME TAX ACT.**

EXHIBIT P3: **COPY OF THE COMMUNICATION DATED 16.1.15 ISSUED BY INCOME TAX OFFICER**

EXHIBIT P4: **COPY OF THE COMMUNICATION DATED 27.01.15 ISSUED BY INCOME TAX OFFICER.**

EXHIBIT P5: **COPY OF THE LETTER ATTESTING INCOME TAX OFFICER DATD 5.5.15.**

EXHIBIT P6: **COPY OF THE CERTIFICATE UNDER SECTION 203 DEDUCTING THE AMOUNT OF THE TAX NAMELY RS.3,15,706.00.**

EXHIBIT P7: **COPY OF THE REPRESENTATION DATED 27.11.14 SUBMITTED BY THE 2ND PETITIONER TO R7.**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. T O JUDGE

bp

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.17867 of 2015

Dated this the 1st day of July, 2015

J U D G M E N T

The petitioners are land owners. The petitioners' land have been acquired for the purpose of Kochi Metro Project. The petitioner approached this Court for refund of the amount already deducted towards income tax by the Land Acquisition Authority.

2. According to the petitioners, no tax is leviable as the acquisition was under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

3. The learned standing counsel for the 4th respondent submits that, since amount already been credited with the account of Government of India, the petitioners' remedy is only to claim for refund along with return to be submitted under the Income Tax Act.

4. Considering the facts and circumstances, I am of the view that, the petitioners can claim refund only along with return to be submitted under the Income Tax Act as already the amount has been credited in the account of the Government of India.

Accordingly, with liberty to claim refund along with return, this writ petition is disposed of.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.

AV