

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

THURSDAY, THE 18TH DAY OF JUNE 2015/28TH JYAISHTA, 1937

WP(C).No. 18893 of 2014 (J)

PETITIONERS:

- 1. ATTAKOYA
KANNARKAKKADA, ANDROTH ISLAND
UNION TERRITORY OF LAKSHADWEEP.**
- 2. MUTHUKOYA PUTHIYADAM
S/O.KOYAMMAKOYA, PUTHIYADAM, ANDROTH ISLAND
UNION TERRITORY OF LAKSHADWEEP.**
- 3. POOKOYATHANAL KUNNANGALAM
KUNNANGALAM, ANDROTH ISLAND
UNION TERRITORY OF LAKSHADWEEP.**
- 4. KOYA PUTHIYADAM
PUTHIYADAM, ANDROTH ISLAND
UNION TERRITORY OF LAKSHADWEEP.**

**BY ADVS.SRI.V.P.MOHAMMED NIYAZ
SRI.K.RONALD JOSE
SRI.M.P.MUHAMMAD FAZIL
SMT.AUGNES LOVELY FRANCIS**

RESPONDENT/RESPONDENT:

- 1. UNION TERRITORY OF LAKSHADWEEP
REPRESENTED BY ITS ADMINISTRATOR
KAVARATHI. 682 555.**
- 2. LAND ACQUISITION COLLECTOR
UNION TERRITORY OF LAKSHADWEEP, KAVARATHI 682 555.**

R1-R2 BY ADV. SRI.S.RADHAKRISHNAN,SC,LAKSHADWEEP ADMINISTRATION

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
18-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

DCS

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1. COPY OF THE LETTER ISSUED BY THE 2ND RESPONDENT TO THE REQUISITION AUTHORITY ALONG WITH THE CALCULATION STATEMENT OF THE COMPENSATION PREPARED BY THE 2ND RESPONDENT, SERVED TO THE PETITIONERS WITH THE 80% AMOUNT.**
- EXHIBIT P2. COPY OF THE CERTIFIED COPY OF THE RECEIPT DATED 17.3.12 ISSUED BY THE 1ST PETITIONER TO THE S.D.O ANDROTH.**
- EXHIBIT P3. COPY OF THE CERTIFIED COPY OF THE RECEIPT DATED 9.3.12 ISSUED BY THE 2ND PETITIONER TO THE S.D.O ANDROTH.**
- EXHIBIT P4. COPY OF THE CERTIFIED COPY OF THE RECEIPT DATED 9.3.12 ISSUED BY THE 3RD PETITIONER TO THE S.D.O ANDROTH.**
- EXHIBIT P5. COPY OF THE CERTIFIED COPY OF THE RECEIPT DATED 18.2.12 ISSUED BY THE 4TH PETITIONER TO THE S.D.O ANDROTH.**
- EXHIBIT P6. COPY OF THE REPRESENTATION DATED 19.08.13 SUBMITTED BY PETITIONERS ALONG WITH OTHER INTERESTED PARTIES OF OTHER PROPERTIES IN EXHIBIT P1 BEFORE THE 2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS:-

- EXHIBIT R1(a). A TRUE COPY OF THE HANDING OVER LIST DATED 19.4.2012**
- EXHIBIT R1(b). A TRUE COPY OF THE LETTER F. NO. 13011/01/2014-LRD, DATED 31.01.2014 ISSUED BY THE MINISTRY OF RURAL DEVELOPMENT, DEPARTMENT OF LAND RESOURCES.**

/TRUE COPY/

P.A. TO JUDGE

V. CHITAMBARESH, J

W.P.(C). NO. 18893 OF 2014

Dated this the 18th day of June, 2015

JUDGMENT

The proceedings for land acquisition commenced under the Land Acquisition Act, 1894. Emergency clause under Section 17 thereof was also invoked in the instant case. 80% of the compensation amount has already been disbursed to the petitioners. This is mandatory before taking possession of the land under Section 17(3A) of the Land Acquisition Act, 1894.

2. It is conceded that no award under Section 11 of the Land Acquisition Act, 1894 is passed. Section 24(1)(a) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 applies. The compensation has therefore to be finalised in accordance with the new Act aforequoted.

3. Rules are yet to be framed under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The passing of Award thereunder finally determining the compensation may

take time. But that need not delay the payment of the 20% of the compensation to the petitioners remaining under the Land Acquisition Act, 1894. The respondents shall disburse the balance 20% of the compensation due to the petitioners within two months.

4. The compensation now arrived is tentative and subject to final determination under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. An Award shall be passed under the new Act soon after the Rules are framed in that regard.

5. The respondents contend that payment of compensation is the primary aspect in land acquisition proceedings. 80% of the compensation amount has concededly been disbursed to the petitioners. Therefore only the old Act can be made applicable for determination of compensation. Reliance is placed on Section 17(3B) of the Land Acquisition Act, 1894 and the proviso to Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

6. I am unable to accede to the contention of the respondents in that count. Section 24(1)(a) of the new Act is

clear enough. The provisions of the new Act apply for determination of compensation when no Award is passed under Section 11 of the Land Acquisition Act, 1894. No external aid is necessary when statutory provision is clear.

The writ petition is disposed of. No costs.

**V. CHITAMBARESH
JUDGE**

DCS