

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

WP(C).No. 22465 of 2012 (G)

PETITIONER(S):

1. RAJAN.N, AGED 41 YEARS
MULLAYARATHALAKKAL VEEDU,
MALAYINKEEZH P.O.,
PRESENTLY RESIDING AT R.S BHAVAN,
NEERAMANKUZHI, OORUTAMBALAM P.O
THIRUVANANTHAPURAM 695 501
2. SINDHU P.G
W/O.RAJAN.N, MULLAYARATHALAKKAL VEEDU,
MALAYINKEEZH P.O.,
PRESENTLY RESIDING AT R.S BHAVAN,
NEERAMANKUZHI, OORUTAMBALAM P.O,
THIRUVANANTHAPURAM 695 501

BY ADVS.SRI.R.S.KALKURA
SRI.M.S.KALESH
SMT.A.V.PRIYA
SRI.HARISH GOPINATH

RESPONDENT(S):

1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY
REVENUE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM 695001
2. THE DISTRICT COLLECTOR
THIRUVANANTHAPURAM DISTRICT, COLLECTORATE,
KUDAPPANAKUNNU
THIRUVANANTHAPURAM 695043
3. THE SPECIAL TAHSILDAR
OFFICE OF THE LAND ACQUISITION (NH)
KEDSAVADASAPURAM, THIRUVANANTHAPURAM 695004

R BY GOVERNMENT PLEADER SRI.K.K.SAIDALAVI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
06-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN W.P.(C) No.22465 of 2012

PETITIONER(S) EXHIBITS

- EXHIBIT P1 : TRUE COPY OF THE NOTICE ISSUED BY THE THIRD RESPONDENT UNDER SECTION 9(3) OF THE LAND ACQUISITION ACT DATED 3.5.2005
- EXHIBIT P2 : TRUE COPY OF THE REPRESENTATION DATED 21.8.2009 SUBMITTED BY THE PETITIONERS BEFORE THE SECOND RESPONDENT.
- EXHIBIT P3 : TRUE COPY OF THE APPLICATION DATED 21.8.2009 UNDER THE RIGHT TO INFORMATION ACT SUBMITTED BY THE PETITIONERS BEFORE THE THIRD RESPONDENT.
- EXHIBIT P4 : TRUE COPY OF THE COMMUNICATION NO.LA2-1150/1990 DATED 12.10.2009 OF THE THIRD RESPONDENT.
- EXHIBIT P5 : TRUE COPY OF THE JUDGMENT DATED 15.6.2010 IN W.P.(C) NO.112/2010 OF THIS HON'BLE COURT.
- EXHIBIT P6 : TRUE COPY OF THE ORDER DATED 13.9.2010 IN PROCEEDINGS K6-65213/2009 ISSUED BY THE SECOND RESPONDENT.
- EXHIBIT P7 : TRUE COPY OF THE AFFIDAVIT FILED BY ADVOCATE ABHILASH IN W.P.(C) NO.112/2010
- EXHIBIT P8 : TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED BY DR.N.FRANCIS DATED 17.9.2012.
- EXHIBIT P9 : TRUE COPY OF THE MRI SCAN REPORT DATED 27.11.2001 ISSUED BY DR.PRADEEP MULEY M.D. OF DEVI SCANS PRIVATE LIMITED.
- EXHIBIT P10 : TRUE COPY OF THE CASE SUMMARY AND DISCHARGE RECORD PERTAINING TO THE PETITIONER DATED 12.12.2015 PREPARED BY DR.VIDYA SAGAR.
- EXHIBIT P11 : TRUE COPY OF THE MRI SCAN REPORT DATED 27.1.2006 ISSUED BY DR.M.KRISHNA KUMAR OF DEVI SCANS.
- EXHIBIT P12 : TRUE COPY OF THE CASE SUMMARY AND DISCHARGE RECORDS PERTAINING TO ME DATED 7.2.2006 PREPARED BY DR.A.MARTHANDA PILLAI OF ANANTHAPURI HOSPITALS AND RESEARCH INSTITUTE.
- EXHIBIT P13 : TRUE COPY OF THE CERTIFICATE ISSUED BY DR.A.MARTHANDA PILLAI DATED 27.10.2012.

RESPONDENT(S) EXHIBITS

NIL.

//TRUE COPY//

P.S. TO JUDGE.

V.CHITAMBARESH, J.

W.P (C) No.22465 of 2012

Dated this the 6th day of April, 2015

J U D G M E N T

I have no reason to disbelieve the Advocate who has filed Ext.P7 affidavit. The Advocate has sworn to the fact that he was very much present when the petitioners submitted the application for reference. The reference was sought for enhanced compensation under Section 18 of the Land Acquisition Act.

2. The very same Advocate had helped the petitioners to receive the cheque for the amount awarded. It should be noted that the cheque was received 'under protest' only. It is difficult to believe that an application for reference would not have been filed after making an endorsement of protest.

3. The petitioners contend that no judgments have been passed recently to invoke Section 28A of the Land Acquisition Act. Things will not improve by permitting the petitioners to adduce oral evidence when the records cannot be traced in the office. Interest of justice would be met by permitting to substitute the application for reference already filed by the petitioners.

4. A copy of such application if received within three weeks from today shall be dealt with as if the same was filed in time. The third respondent shall deal with the application for reference on merits. Ext.P6 order rejecting the application for reference is quashed for this limited purpose.

The writ Petition is allowed. No costs.

Sd/-
V.CHITAMBARESH,
Judge.

nj.