

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937

WP(C) .No. 23529 of 2012 (M)

PETITIONER(S) :-

1. CHINTHAMANI, W/O.AYYAPPAN.
2. CHITHAMBARAN, S/O.AYYAPPAN.
3. SUDHEER, S/O.AYYAPPAN,

ALL RESIDING AT KOORATH HOUSE
MANKURUSSI P.O., PALAKKAD.

BY ADV. SRI.A.R.GANGADAS

RESPONDENT(S) :-

1. THE DISTRICT COLLECTOR
COLLECTORATE, CIVIL STATION, PALAKKAD - 678 001.
2. THE SPECIAL TAHASILDAR
L.A.KINFRA, PALAKKAD DISTRICT, PIN - 678 001.

BY GOVERNMENT PLEADER SRI.P.P.PADMALAYAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 13-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

jvt

WP(C).NO.23529 OF 2012

APPENDIX

PETITIONER'S EXHIBITS :-

EXT.P1 :- TRUE COPY OF THE JUDGMENT DATED 6.4.2004 IN WP(C)
No.7387 OF 2004.

EXT.P2 :- TRUE COPY OF THE ORDER No.734/2011 DATED
20.3.2012 PASSED BY THE RESPONDENT.

EXT.P3 :- TRUE COPY OF THE APPLICATION FILED BY THE
PETITIONERS TO THE SECOND RESPONDENT DTD 9.4.2012.

EXT.P4 :- TRUE COPY OF THE ORDER DATED 15.6.2012 ISSUED BY
SECOND RESPONDENT.

RESPONDENT'S EXHIBITS :- NIL.

//TRUE COPY//

P.A. TO JUDGE

A.M.SHAFFIQUE, J

W.P(C). No. 23529 of 2012

Dated this the 13th day of November, 2015

J U D G M E N T

Petitioner challenges Ext.P4 by which his application under section 28A (3) has been rejected by the Land Acquisition Officer stating that his application is not maintainable as his application under section 28A (1) has been rejected by the Collector.

2. Learned counsel for the petitioner submits that rejection of 28A(1) application enables him to file application under section 28A(3) of the Act. I do not think so. Section 28A reads as under :

“28A. Re-determination of the amount of compensation on the basis of the award of the Court.-
(1) Where in an award under this Part, the Court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under section 11, the persons interested in all the other land covered by the same notification under section 4, sub-section (1) and who are also aggrieved by the award of the Collector, may, notwithstanding that they had not made an application to the Collector under section 18, by written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the

amount of compensation awarded by the Court:

Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.

(2) The Collector shall, on receipt of an application under sub-section (1) conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard, and make an award determining the amount of compensation payable to the applicants.

(3) Any person who has not accepted the award under sub-section (2) may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court and the provisions of sections 18 to 28 shall, so far as may be, apply to such reference as they apply to a reference under section 18."

3. Section 28A(3) application can be filed only if a person does not accept the award under sub-section (2) in which case, a reference has to be made by the Collector under Section 18 of the Land Acquisition Act. Under Section 28A(2), the Collector has to determine an application under Section 28A(1) and thereafter pass an award determining the compensation payable to the applicant. When an award is passed, it indicates determination of compensation. Refusal to pass an award is not award in terms of the statutory provision.

4. Under such circumstances, the Land Acquisition

Authority is justified in issuing Ext.P4. The petitioner has not made out any ground to interfere with Ext.P4.

Accordingly this writ petition is dismissed.

Sd/-
A.M.SHAFIQUE,
JUDGE

// TRUE COPY //

sou.17/11/15