

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 13TH DAY OF FEBRUARY 2015/24TH MAGHA, 1936

WP(C). No. 25298 of 2012 (J)

PETITIONER(S):

1. **PROF. P.V. DONALD, AGED 76,
S/O. VAJ, RESIDING AT VIJAYA BHAVAN, KOCHUVELI,
TITANIUM P.O., THIRUVANANTHAPURAM-21.**
2. **P.V.CAJETAN, AGED 79,
USHUS, VALIYATHURA, THIRUVANANTHAPURAM.**
3. **P.V.VIJAYAN, AGED 59,
VIJAYA BHAVAN, KOCHUVELI, TITANIUM P.O.,
THIRUVANANTHAPURAM-21.**
4. **YOUNNE LAWRENCE, VIJAYA BHAVAN,
VIJAYA BHAVAN, KOCHUVELI, TITANIUM P.O.,
THIRUVANANTHAPURAM.**
5. **P.V.BALAN,
S/O. VAJ, VIJAYA BHAVAN, KOCHUVELI,
TITANIUM P.O., THIRUVANANTHAPURAM.**
6. **LUELLA CHRISTI,
D/O. VAJ, AISWARYA, RAILWAY STATION ROAD,
KAZHAKUTTOM P.O.**

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

RESPONDENT(S):

1. **STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM-695 001.**
2. **SECRETARY,
GENERAL EDUCATION DEPARTMENT, GOVERNMENT OF KERALA,
SECRETARIAT, THIRUVANANTHAPURAM-695 001.**

BY GOVERNMENT PLEADER SMT. SUNITHA VINOD

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C). No. 25298 of 2012 (J)

APPENDIX

PETITIONER(S) EXHIBITS:-

P1 : COPY OF THE NOTIFICATION NO.23694/NI/75/G.EDN. DTD.24.6.1975 PUBLISHED IN KERALA GAZETTE EXTRA ORDINARY NO.327 DTD.24.6.1975.

P2 : COPY OF THE ORDER BEAIRNG NO.GO(RT)NO.688/2000/G.EDN. DTD.19.2.2000.

P3 : COPY OF THE JUDGMENT DTD.30.10.2008 IN WPC NO.17959/2000.

P4 : COPY OF GO(RT)NO.1611/2012/G.EDN. DTD.31.3.2012.

P5 : COPY OF THE JUDGMENT IN CCC NO.353/2012 DTD.23.7.2012.

RESPONDENTS' EXHIBITS:- NIL

KRJ

/True Copy/

P.A to Judge

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.25298 of 2012

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Dated this the 13th day of February, 2015

JUDGMENT

Ext.P4 order is under challenge.

2. The petitioners are the children and legal heirs of one Smt. Irene Vaz, who is no more. Deceased Irene was the owner of 1 acre of land comprised in Sy. No.2785 of Kadakompally village at Thiruvananthapuram taluk. U.P.School, Veli was sanctioned to be established in the said land and deceased Irene was the manager of the said school.

3. During the year 1974-75, deceased Irene requested the Government to accord sanction for closing down the school as per the provisions of the Kerala Education Rules as it became difficult for her to run the school. However, the Government took over the management of the school temporarily for a period of five years by notification dated 24.6.1975. Thereafter, a monthly rent of ₹103/- was sanctioned initially to the deceased Irene. Later on intervention of the District Court, the amount of rent was raised to ₹463/- per month. Thereafter, the Government issued notification dated

28.1.1985 vesting the school with the Government invoking the powers conferred under Section 14(8) of the Kerala Education Act.

4. Before getting the full amount of rent, the mother of the petitioners passed away on 21.1.1989. The petitioners filed representation before the Government praying either to restore the school to them or else to pay compensation to them at the prevailing market rate as provided under Section 14(5) of the K.E.Act. As there was no response, the petitioners filed O.P No.5310 of 1998 before this Court, in which the Government was directed to dispose of the petitioners' representation. The said direction was not complied with and the petitioner filed C.O.C No.89 of 2000. On filing the same, the second respondent passed order dated 19.2.2000 holding that the property did not belong to the deceased Irene and the school belonged to one Kumaran Madhavan. Aggrieved by that, the petitioners filed W.P(C) No.17959 of 2000 before this Court for quashing the said order. This Court by judgment dated 30.10.2008 quashed the same and directed the Government to fix the compensation due to the petitioners for acquisition of the school within a period of three months.

5. The petitioners allege that in spite of passing the said judgment and repeated representations, the respondents did not take any steps to pay compensation. Therefore, the petitioner again approached this Court with contempt petition. During the course of pendency of the said contempt, the first respondent passed the present order impugned dated 31.3.2012 awarding a compensation of ₹1,16,000/- as land value for one acre of land in Thiruvananthapuram city. It is with this background, the petitioners have come up before this Court.

6. I have heard the learned counsel for the petitioners and the learned Government Pleader in the matter.

7. It was pointed out that the present order was passed in a hurry without affording the petitioners an opportunity of being heard. Though it was strenuously argued by the learned Government Pleader that as the dispute is regarding the question of quantum, the property remedy open to the petitioner is to approach a competent civil court. However, it has to be noted that the respondents have no case that the petitioners were afforded an opportunity of being heard as mandated by the Kerala Education Act and Rules.

8. As the requirements under the Rules have not been complied with, Ext.P4 order cannot be allowed to stand.

Therefore, the writ petition is disposed of directing the respondents to re-consider the issue *de hors* the impugned order after affording the petitioners an opportunity of being heard. This exercise shall be completed within three months from the date of receipt of a copy of this judgment.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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