

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

MONDAY, THE 25TH DAY OF MAY 2015/4TH JYAISHTA, 1937

WP(C).No. 23659 of 2014 (F)

PETITIONER:

P.V.MOHAMMED
S/O.VEERANKUTTY, M/S. QUALITY TRADING COMPANY
P.O BOX NO.25476, MEENA VEG MARKET, ABUDHABI
UAE, RESIDING AT PUTHENPEEDIKAYIL, 265
CHELAKKODE, THALPPILLY TALUK, THRISSUR DISTRICT.

BY ADVS.SRI.G.HARIHARAN
SRI.PRAVEEN.H.

RESPONDENT(S):

1. THE RAIL LAND DEVELOPMENT AUTHORITY
MINISTRY OF RAILWAYS, IRCON OFFICE COMPOUND
NEXT TO SAFARDARJUNG RAILWAY STATION, MOTI BAGH 1
NEW DELHI 110 021, REPRESENTED BY ITS SECRETARY.

2. UNION OF INDIA,
MINISTRY OF RAILWAYS, RAIL BHAVAN, NEW DELHI 110 001.

3. THE SPECIAL CRIME BRANCH,
CENTRAL BUREAU OF INVESTIGATION, MALABAR HOUSE
KESTON ROAD, TC 11/304, VELLAYAMBALAM
THIRUVANANTHAPURAM - 695 003.

4. THE DIVISIONAL MANAGER
SOUTHERN RAILWAY, RAILWAY COLONY, PALAKKAD 678 001.

R2 BY ADV.SRI.N.NAGARESH,ASSISTANT SOLICITOR GENERAL OF INDIA

R1 BY ADV. SRI.T.RAJESH

R1 BY ADV. SRI.BIJU P.THOMAS

R BY SRI.C.S.DIAS,SC, RAILWAYS

R BY SRI.P.CHANDRASEKHARA PILLAI, C.B.I.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
25-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1. COPY OF THE LETTER DATED 12.03.10 HAVING NO.RLDA/RFQ/CCP/CLT/10-1 SENT BY THE IST RESPONDENT TO THE PETITIONER.

EXHIBIT P2. COPY OF THE LETTER DATED 10.06.10 HAVING NO.RLDA/FI/LCP/CLT/03-01 ISSUED BY THE IST RESPONDENT TO THE PETITIONER.

EXHIBIT P3. COPY OF THE COMMUNICATION HAVING NO.RLDA/FI/LCP/CLT/ORDER/01 DATED 03.09.10 ISSUED BY THE IST RESPONDENT TO THE PETITIONER.

EXHIBIT P4. COPY OF THE RECEIPT NO.RLDA/LCP/CLT/01 DATED 12.11.10 ISSUED BY THE IST RESPONDENT TO THE PETITIONER.

EXHIBIT P5. COPY OF THE LETTER ISSUED BY THE IST RESPONDENT HAVING NO.RLDA/LCP/CLT/RB/09 DATED 21.12.10 ISSUED BY THE IST RESPONDENT TO THE PETITIONER.

EXHIBIT P6. COPY OF THE COMMUNICATION ISSUED BY THE IST RESPONDENT TO THE PETITIONER HAVING NO.RLDA/CP/CLT/RB/02 DATED 28.04.2011.

EXHIBIT P7. COPY OF RECEIPT NO.RLDA/LCP/CLT/01 DATED 24.01.12 EVIDENCING RECEIPT OF AN AMOUNT OF RS.95,04,000/- ISSUED BY THE IST RESPONDENT TO THE PETITIONER.

EXHIBIT P8. COPY OF COMMUNICATION DATED 19.01.12 HAVING NO.RLDA/FI/LCP/CLT/1-1 ISSUED BY THE IST RESPONDENT TO THE PETITIONER.

EXHIBIT P9. COPY OF THE COMMUNICATION NO.RLAD/FI/LCP/CLT/1-2 DATED 03.04.12 ISSUED BY THE IST RESPONDENT TO THE PETITIONER.

EXHIBIT P10.COPY OF THE COMMUNICATION NO.RLAD/LCP/CLT/01/ORDER DATED 24.07.12 ISSUED BY THE IST RESPONDENT SENT TO THE PETITIONER.

EXHIBIT P11.COPY OF THE COMMUNICATION NO.RLDA/LCP/CLT/01/2/2/ORDER DATED 24.09.12 SENT BY THE IST RESPONDENT TO THE PETITIONER.

EXHIBIT P12.COPY OF THE COMMUNICATION HAVING NO.RLAD/LCP/CLT/01/ORDER FINAL DATED 12.12.12 ISSUED BY THE IST RESPONDENT TO THE PETITIONER.

EXHIBIT P13.COPY OF THE LETTER NO.RLDA/LCP/CLT/ORDER - FINAL DATED 12.03.13 SENT BY THE IST RESPONDENT TO THE PETITIONER.

EXHIBIT P14.COPY OF THE COMMUNICATION NO.RLDA/LCP/CLT/ORDER-FINAL DATED 15.04.13 SENT BY THE IST RESPONDENT TO THE PETITIONER.

EXHIBIT P15.COPY OF THE COMMUNICATION DATED 10.06.13 SENT BY THE IST RESPONDENT TO THE PETITIONER.

EXHIBIT P16.COPY OF THE COMMUNICATION NO.RLDA/LCP/CLT/01/2/3/ORDER DATED 28.06.13 FROM THE IST RESPONDENT TO THE PETITIONER.

EXHIBIT P17.COPY OF THE COMMUNICATION NO.RLDA/LCP/CLT/ORDER/2013 DATED 16.08.13 SENT BY THE IST RESPONDENT TO THE PETITIONER.

EXHIBIT P18.COPY OF THE COMMUNICATION NO.RLDA/CLT/02/ORDER/2013 DATED 27.11.13 SENT BY THE IST RESPONDENT TO THE PETITIONER.

EXHIBIT P19.COPY OF THE ORDER DATED 01.10.13 ISSUED BY THE IST RESPONDENT TO THE PETITIONER.

EXHIBIT P20.COPY OF THE COMMUNICATION NO.RLDA/LCP/CLT/ORDER/2013 DATED 03.10.13 SENT BY THE IST RESPONDENT TO THE PETITIONER.

EXHIBIT P21.COPY OF THE COMMUNICATION HAVING NO.RLDA/CLT/01/ORDER/2013-2 DATED 03.02.14 ISSUED BY THE IST RESPONDENT TO THE PETITIONER.

EXHIBIT P22.COPY OF THE COMMUNICATION NO.RLDA/CLT/02/ORDER/2013-4 DATED 10.3.14 SENT BY THE IST RESPONDENT TO THE PETITIONER.

EXHIBIT P23.COPY OF THE COMMUNICATION NO.RLDA/CLT/03/ORDER/2013-5 DATED 01.04.14 ISSUED BY THE IST RESPONDENT TO THE PETITIONER.

EXHIBIT P24: TRUE COPY OF THE COMMUNICATION DATED 7.8.2014 ISSUED BY THE RAIL DEVELOPMENT AUTHORITY, (RLDA) NEW DELHI ON 27.10.2014.

EXHIBIT P25: TRUE COPY OF POSTAL COVERS RECEIVED BY THE PETITIONER.

RESPONDENT(S) ' EXHIBITS

NIL.

/TRUE COPY/

P.S TO JUDGE

P.V.ASHA, J.

W.P(c) No.23659 of 2014-F

Dated this the 25th day of May, 2015

JUDGMENT

The petitioner, who claims to be a businessman, has filed this Writ Petition praying for a direction to the Railway Land Development Authority - the 1st respondent, to finalise the further proceedings for development of railway land lying near the city railway station, Kozhikode. The petitioner's case is that he filed an application before the 1st respondent expressing his interest in their project for development of commercial plot at Calicut near city railway station and offered to pay a sum of Rs.96 lakhs as the lease premium to the railway development authority after availing lease of 1.95 acres of land near the railway station, Kozhikode for a period of 99 years. Petitioner claims that he received a letter dated 12.03.2010 from the 1st respondent, which is produced as Ext.P1, intimating him that he was shortlisted for the purpose of development of land on the basis of the evaluation of his application; pursuant to Ext P2 letter dated 10.6.2010 of 1st respondent, he approached their office on 3.9.2010 with all original documents and on completion

of all procedural formalities, the 1st respondent confirmed allotment of 1.95 acres of land on lease for development of commercial plot near Calicut Railway station for a period of 99 years; they directed him to pay Rs. 96 lakhs towards lease premium and annual rent @Rs.1/-per sq.meter of the land leased, in advance every year; he paid the entire lease premium amount of Rs.10,57,880/- on 12.11.2010 in cash and 1st respondent issued Ext P4 receipt; that the 1st respondent promised vacant possession of the land and no objection certificate for construction, and he made a further payment of Rs. Rs.95,04,000/- towards final payment of lease premium, on 24.01.2012 and produced all the relevant documents, as directed by 1st respondent, after a series of letters and interviews, the 1st respondent issued the order for development of land on 1.10.2013 ; but the actual grant of permission was being delayed inordinately, despite repeated assurances made by 1st respondent. The petitioner has produced documents Exts.P1 to P23, to show the correspondences and the transactions with the 1st respondent, during the period from 2010 to 2014. His grievance is that despite all these communications, the 1st respondent is not handing over the relevant documents for

commencement of the project.

2. The 1st respondent has filed a counter affidavit refuting all the claims in the Writ Petition and denying all the allegations levelled against them. According to them they have started their operation in the state of Kerala only in the year 2012. The petitioner's case is that proceedings were initiated and amount was paid as early as in 2010. Hence according to them, none of the documents produced by the petitioner as having been sent by them are issued from their office; even the letter head of the 1st respondent, is entirely different from the original one. The entire story set up by petitioner is false, by producing fabricated documents. No transaction is entered into by them with the petitioner and they have not accepted any amount from petitioner or given any receipt to him. The 1st respondent has not initiated any proceedings for development of the land in Kerala, as alleged. Their specific case is that none of the officials attached to the 1st respondent has entered into any of the alleged transactions. It is further stated that the 1st respondent is a statutory authority which notifies all its tenders in its website and newspapers. Even a statement made by the petitioner that the lease amount was fixed as Rs.96 lakhs and the

payment made was Rs.1,05,61,880/-, is described as contradictory. According to them, they have nothing to do with the alleged transaction. They also support the claim of the petitioner to have an investigation by an appropriate agency in respect of the alleged fraudulent transaction. In paragraph 14 of the counter affidavit, they have stated that the allegation of foul play on their side has to be investigated through proper authorities, so that they may be protected from such allegations in future.

3. The second prayer in the Writ Petition is for a direction to the 3rd respondent - Central Bureau of Investigation, to conduct an enquiry into the documents/communications issued by the 1st respondent, produced as Exts.P1 to P23.

4. I heard the learned counsel appearing for the petitioner, the learned Standing Counsel for the 1st respondent as well as the learned Standing Counsel for the C.B.I. Since there are serious allegations, regarding fraudulent transactions involving crores of rupees and the 1st respondent is a statutory authority and the petitioner as well as the 1st respondent are of the view that the matter has to be enquired into by an appropriate agency, in order to divulge the truth and to find out

the real culprits behind all these and to take appropriate action to curb such fraudulent and illegal activities, it is only just and proper that the 3rd respondent enquires into the matter and takes appropriate action in accordance with law.

In the above circumstances, there will be a direction to the 3rd respondent to conduct a preliminary enquiry into the allegations raised in the Writ Petition as well as in the counter affidavit in respect of the alleged transactions, within a period of three months from the date of receipt of a copy of this judgment and to proceed in accordance with law, based on the findings arrived at therein.

This Writ Petition is disposed of accordingly.

rtr/

Sd/-
(P.V.ASHA, JUDGE)