

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

MONDAY, THE 17TH DAY OF AUGUST 2015/26TH SRAVANA, 1937

WP(C).No. 28590 of 2010 (W)

PETITIONER:

MATHRADAN PUTHIYA VEETIL KARTHIYAYANI,
W/O. KRISHNAN, AGED 80 YEARS,
KUNHIMANGALAM AMSOM, EDANAD DESOM,
EDAT P.O., KANNUR DISTRICT.

BY ADV. SRI.M.V.AMARESAN

RESPONDENT:

THE SPECIAL TAHSILDAR (LA OFFICER)
LAND ACQUISITION, NATIONAL HIGH WAY,
KANNUR PIN 670 001.

BY SENIOR GOVERNMENT PLEADER SRI. THOMAS JOHN AMBOOKEN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17-08-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) EXHIBITS

- EXHIBIT P1 : TRUE COPY OF NOTICE OF AWARD DATED 20.03.1990 ISSUED BY THE RESPONDENT.
- EXHIBIT P2 : TRUE COPY OF APPLICATION PREFERRED BY THE PETITIONER DATED 23.06.1995.
- EXHIBIT P3 : TRUE COPY OF JUDGMENT OF THIS HONOURABLE COURT DATED 13.08.2009 IN WP(C) NO. 22188/2009.
- EXHIBIT P4 : TRUE COPY OF COMMUNICATION ISSUED BY THE RESPONDENT TO THE PETITIONER DATED 10.12.2009 BEARING REF. NO. D. 1431/2009.
- EXHIBIT P5 : TRUE COPY OF COMMUNICATION BEARING NO. REF. D.1431/2009 DATED 28.04.2010 ISSUED BY THE RESPONDENT TO THE PETITIONER.
- EXHIBIT P6 : TRUE COPY OF REPLY DATED 28.07.2010 WITH COVERING LETTER ISSUED BY RESPONDENT TO THE PETITIONER.
- EXHIBIT P7 : TRUE COPY OF ORDER DATED 07.12.2001 ISSUED FROM RESPONDENT TO PETITIONER.

RESPONDENT(S) EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE.

V. CHITAMBARESH, J

WP(C) NO. 28590 OF 2010

Dated this the 17th day of August, 2015

JUDGMENT

The receipt of the compensation amount under protest is not a sine qua non to maintain an application under Section 28A (1) of the Land Acquisition Act, 1894. Exts.P5 and P7 orders rejecting the application put in by the petitioner on that ground is therefore not sustainable in law.

2. Exts.P5 and P7 orders are quashed and the respondent is directed to reconsider Ext.P2 application on merits. The same shall be done in the context of Section 28A(1) of the Land Acquisition Act subject to the law of limitation. The needful shall be done within a period of two months from the date of receipt of a copy of this judgment.

The Writ Petition is disposed of.

**V. CHITAMBARESH
JUDGE**

ncd