

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

WP(C).No. 28198 of 2011 (Y)

PETITIONERS:

- 1. V.KRISHNA SHENOY
LAKSHMI MACHINE WORKS, P.N.PALAYAM, COIMBATORE
NOW RESIDING AT KOTTUKULANGARA, 'KAMAL NIVAS'
THURAVUR P.O., ALAPPUZHA DISTRICT.**
- 2. V.V.CHANDRAMATHI BAI,
WIFE OF KRISHNA SHENOY, 'KAMAL NIVAS', THURAVUR P.O.
ALAPPUZHA DISTRICT.**

**BY ADVS.SRI.V.L.SHENOY
SRI.L.JAYAWANTH**

RESPONDENTS:

- 1. THE STATE OF KERALA
REPRESENTED BY DISTRICT COLLECTOR
ALAPPUZHA-688 012.**
 - 2. THE SPECIAL TAHSILDAR,
LAND ACQUISITION (GENERAL), ALAPPUZHA-688 012.**
- * ADDL. R3 IS IMPEADED**
- 3. THE THURAVOOR COMMUNITY HEALTH CENTRE HOSPITAL
MANAGING COMMITTEE, THURAVOOR.P.O., CHERTHALA
REPRESENTED BY ITS CHAIRMAN.**
- * ADDL. R3 IS IMPEADED AS PER ORDER IN I.A. NO. 10872/2012 DATED
09.08.2012**
- ** ADDL. R4 & R5 ARE IMPEADED**
- 4. C.P.VIJAYAN @ C.P.BABU
SON OF LATE C.K.PURUSHOTHAMAN, CHANIYIL HOUSE
THIRUMALA BHAGOM PO., THURAVOOR CHERTHALA, ALAPPUZHA
PIN - 688 540.**

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**5. K.A.ABRAHAM (KUNJAPPACHAN)
EX.MEMBER OF PANCHAYATH, SON OF K.V.ABRAHAM
THEKKANEZHATH(KAKKARAVELI), VALAVANGALAM SOUTH
THURAVOOR CHERTHALA, ALAPPUZHA, PIN - 688 532.**

**** ADDL.R4 AND R5 ARE IMPEADED AS PER ORDER DATED 03.02.2015 IN
IA 246/15.**

**R1 & R2 BY GOVERNMENT PLEADER SRI. T. R. RAJESH
ADDL. R3 BY ADVS. SRI.V.G.ARUN
SRI.T.R.HARIKUMAR
ADDL.R4 & R 5 BY ADV.SRI.P.SANTHOSH KUMAR (TR)
SRI.T.PSAJAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
09-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

DCS

APPENDIX

PETITIONER(S) EXHIBITS :-

**EXHIBIT P1- COPY OF THE DELIVERY KYCHIT DATED 28.3.2003 IN
E.P.291/2001 IN O.S.35/1969 ON THE FILE OF SUB
COURT, CHERTHALA.**

**EXHIBIT P2- COPY OF JUDGEMENT DATED 4.11.2005 IN WPC 11737/2005
ON THE FILE OF HIGH COURT OF KERALA.**

**EXHIBIT P3- COPY OF ORDER DATED 4.10.2004 IN WP(C) 28207/2004
ON THE FILE OF HIGH COURT OF KERALA.**

**EXHIBIT P4- COPY OF THE JUDGEMENT DATED 26.5.2004 IN WP(C) 9760/04
ON THE FILE OF HIGH COURT OF KERALA.**

**EXHIBIT P5- COPY OF THE JUDGEMENT DATED 16.3.2006 IN WP(C)
7291/2006 ON THE FILE OF HIGH COURT OF KERALA.**

**EXHIBIT P6- COPY OF THE JUDGEMENT DATED 17.8.2006 IN WP(C)
9229/2006 ON THE FILE OF HIGH COURT OF KERALA.**

**EXHIBIT P7- COPY OF THE JUDGEMENT DATED 17.8.2006 IN CON.CASE (C)
519/2006 ON THE FILE OF HIGH COURT OF KERALA.**

**EXHIBIT P8- COPY OF THE MEMO DATED 4.7.2006 FILED IN CON.CASE (C)
519/2006 ON THE FILE OF HIGH COURT OF KERALA.**

**EXHIBIT P9- COPY OF THE ORDER DATED 11.6.2008 IN R.P.551/2008
IN WP(C) NO.9229/2006 ON THE FILE OF HIGH COURT OF
KERALA.**

**EXHIBIT P10- COPY OF THE NOTIFICATION PUBLISHED IN MATHRUBHUMI
DAILY DATED 10.4.2010.**

**EXHIBIT P11- COPY OF NOTICE NO.B1-6039/2003 DATED 8.7.2010
ISSUED BY 2ND RESPONDENT.**

EXHIBIT P12- COPY OF OBJECTIONS FILED BEFORE THE 2ND RESPONDENT.

**EXHIBIT P13- COPY OF THE OBJECTIONS FILED BY THE 2ND PETITIONER
BEFORE THE 2ND RESPONDENT DATED 17.5.2010.**

**EXHIBIT P14- COPY OF THE ORDER NO.L.R.(C4) 45847/10 DATED 7.5.2011
OF THE 2ND RESPONDENT.**

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**EXHIBIT P15- COPY OF NOTICE NO.LAC-2/2011 DATED 1.10.2011 ISSUED
BY THE 2ND RESPONDENT.**

RESPONDENTS' EXHIBITS :-

**EXHIBIT R3(a)- COPY OF THE COMMUNICATION NO. B.1-6099/2013 OF THE
FOURTH RESPONDENT DATED 1.8.2011**

EXHIBIT R3(b)- COPY OF THE G.O. (ORD). NO. 2245/2011/ LSGD DATED 28.09.2011

**EXHIBIT R3(c)- COPY OF THE RECEIPT 29.09.2011 ISSUED BY THE FOURTH
RESPONDENT**

**EXHIBIT R3(d)- COPY OF THE PROCEEDINGS DATED 28.05.2012 OF THE
DISTRICT COLLECTOR, ALAPPUZHA**

EXHIBIT R3(e)- COPY OF THE COMMUNICATION NO. B1- 6039/03 DATED 02.06.2012

**EXHIBIT R4(a)- COPY OF THE PUBLICATION PUBLISHED IN THE GAZETTE
DATED 10.05.2011 VIDE REFERENCE NO. LRC 4-45847/2010 DATED
09.05.2011**

/TRUE COPY/

P.A TO JUDGE

DCS

V. CHITAMBARESH, J

W.P.(C). NO. 28198 OF 2011

Dated this the 09th day of February, 2015

JUDGMENT

The principal contention of the petitioners is that the notification under Section 4(1) of the Land Acquisition Act, 1894 was not followed by a declaration under Section 6 thereof within one year. This is belied by the additional counter affidavit filed by the second respondent which reflects that the notification under Section 4(1) of the Land Acquisition Act was published on 04.06.2010 and that the declaration under Section 6 of the Land Acquisition Act was published on 10.05.2011. The acquisition is for a Community Health Centre and the amount has already been deposited pursuant to the award in the Land Acquisition Case.

2. The writ petition is dismissed without prejudice to the right of the petitioners to challenge the award or seek enhancement of compensation.

The writ petition is disposed of.

**V. CHITAMBARESH
JUDGE**

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