IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 22ND DAY OF SEPTEMBER 2015/31ST BHADRA, 1937

WP(C).NO. 25369 OF 2015 (U)

PETITIONER(S):

E.SARADAMMA, AGED 81,
D/O.EASWARI PILLAI, RESIDING AT SUMAJ, ANJANEYAM
CHENKALLOOR, MYTHRI NAGAR, 42(A)
POOJAPPURA P.O., THIRUVANANTHAPURAM
REPRESENTED BY POWER OF ATTORNEY HOLDER AND DAUGHTER
P.S.JAYAMANGALAM.

BY ADV. SRI.M.SREEKUMAR

RESPONDENT(S):

1. UNION OF INDIA
REPRESENTED BY SECRETARY
MINISTRY OF ROAD AND TRANSPORT HIGHWAYS, G 5 & 6
SECTOR-10, DWARKA, NEW DELHI-110 075.

2. NATIONAL HIGHWAY AUTHORITY OF INDIA,
REPRESENTED BY ITS CHAIRMAN, G 5 & 6, SECTOR-10
DWARKA, NEW DELHI-110 075.

3. THE SPECIAL DEPUTY COLLECTOR AND COMPETENT AUTHORITY LA(NH)
THIRUVANANTHAPURAM.

ADDL. R4 IMPLEADED:

ADDL.4. COMMISSIONER OF INCOME TAX (T.D.S)
ERNAKULAM - 682 016.ADDL.
(*R4 IMPLEADED AS PER ORDER DATED 08.09.2015 IN IA 12762/15)

BY SRI.K.M.V.PANDALAI, SC.,
R1-R2 BY ADV. SMT.H.SUBHALEKSHMI, CGC
R2 BY ADV. SRI.THOMAS ANTONY
BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
BY GOVERNMENT PLEADER SRI.LIJU V.STEPHEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).NO. 25369 OF 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1. TRUE COPY OF AWARD IN LAC 1161/13-A, DATED 17/3/2015 OF THE 3RD RESPONDENT

EXT.P2. TRUE COPY OF THE CERTIFICATE NO.CKB 24/15-16 DATED 29/7/2015 OF THE AGRICULTURAL OFFICER, KRISHI BHAVAN, CHENKAL.

EXT.P3. TRUE COPY OF THE CIRCULAR NO.24011/1/2009-LRD DATED 13/4/2011.

EXT.P4. TRUE COPY OF REPRESENTATION FILED BY THE PETITIONER BEFORE THE DISTRICT COLLECTOR, THIRUVANANTHAPURAM DATED 6/4/2015.

RESPONDENT(S)' EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

...

W.P.(C).No.25369 of 2015

...

Dated this the 22nd day of September, 2015

JUDGMENT

The petitioner, whose land is stated to have been acquired by the Government at the instance of the Central Government in connection with a National Highway Project, is aggrieved by the deduction of income tax at source from the compensation amounts that were paid to him in connection with the said acquisition. The prayer in the writ petition is for a direction to the respondents to refund the amounts deducted towards income Tax from the compensation amounts paid to him pursuant to Ext.P1 award.

2. I have heard the learned counsel for the petitioner, learned Standing counsel for the Income Tax Department, learned counsel for the 2nd respondent, and also the Government Pleader for the 3rd respondent.

On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that, inasmuch as the tax amount has now been deducted at source, the remedy of the petitioner now lies in filing a return before the Income Tax authorities under the Income Tax Act and seeking an exemption from tax, on the ground that, the property in question was an agricultural property and seeking a refund of the amounts deducted from the compensation amount paid to him, in assessment proceedings before the income tax authority for the relevant assessment year. Thus, relegating the petitioner to his remedy of approaching the income tax authorities for refund of the amounts in question, I close the writ petition.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns