

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

TUESDAY, THE 17TH DAY OF NOVEMBER 2015/26TH KARTHIKA, 1937

WP(C).NO. 29333 OF 2012 (N)

PETITIONERS:

1. P.BABURAJAN, AGED 51 YEARS,
S/O.P KUNHIKANNAN, PEEDIKANDY HOUSE, CHOMBALA P.O.,
VADAKARA
2. P. RAGHAVAN,
R/A.-DO-
3. T P SOUMINI,
D/O.K K GOPI, THEKKE PEEDIKAKANDY, SUMANA ,
CHOMBALA P.O., VADAKARA
4. K. P. JAYACHANDRAN,
S/O.RAMAN, MOONNUPOOLA PARAMBATH HOUSE, CHOMBALA,
VADAKARA
5. K. N. GOPALAKRISHNAN
MANIKYALAYAM, NIRATHARIKATH PARAMBA,
NEAR TELEPHONE EXCHANGE, CHOMBALA , VADAKARA
6. K. N. VENUGOPAL,
K N C SADANAM, CHOMBALA P.O, VADAKARA
7. P .K. NANU MASTER,
RAJEESH VILLA, PEEDIKA KANDY, CHOMBALA P.O.
VADAKARA
8. PREMA RAJAN,
KARIMBANAKKAL HOUSE , MUTTUNGAL P.O., VADAKARA
9. JANARDHANAN K,
GREESHMAM, MUTTUNGAL P.O., VADAKARA
10. S SUREKHA,
D/O.DR T SAHADEVAN, 'SUDARSHANA', CHOMBALA
VADAKARA
11. RAJISHA R,
PUTHIYAPURAYIL HOUSE, CHOMBALA P.O., VADAKARA

BY ADV. SRI.T.G.RAJENDRAN

WP(C) .NO. 29333 OF 2012 (N)

RESPONDENT(S) :

1. STATE OF KERALA
REP.BY THE SECRETARY, REVENUE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695001
2. THE DISTRICT COLLECTOR,
KOZHIKODE-673001
3. THE SPECIAL DEPUTY COLLECTOR (LA)
NHAI, KOZHIKODE-673001
4. THE SPECIAL TAHSILDAR(LA)
NHAI, VADAKARA, KOZHIKODE-673001
5. THE PROJECT DIRECTOR,
NATIONAL HIGHWAY AUTHORITY OF INDIA,
PROJECT IMPLEMENTATION UNIT, NO2/2175-B,
KRISHNA KRIPA , ISWARYA ROAD, CIVIL STATION P.O.,
KOZHIKODE-673001
6. UNION OF INDIA
REP.BY ITS SECRETARY,
MINISTRY OF ROAD TRANSPORT AND HIGHWAYS,
DEPARTMENT OF ROAD TRANSPORT AND HIGHWAYS,
NEW DELHI-110011

R5 BY ADV. SRI.M.P.PRAKASH
R5 BY ADV. SRI.THOMAS ANTONY
BY ADV. GOVERNMENT PLEADER, SRI. T.J. MICHAIL
R6 BY ADV. SRI.P.PARAMESWARAN NAIR,ASG OF INDIA
BY ADV. N. NAGARESH,ASG OF INDIA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
17-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:- TRUE COPY OF THE OBJECTION DTD 10/1/2012 FILED BY TH 10TH
PETITIONER

EXT.P2:- A TRUE COPY OF THE APPROVED LA PLAN

EXT.P3:- A TRUE COPY OF THE APPROVED LA PLAN

EXT.P4:- TRUE COPIES OF THE RELEVANT PORTION OF THE FINAL DETAILED
PROJECT REPORT

EXT.P5:- TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE 10TH
PETITIONER TO THE 4TH RESPONDENT DTD 16/8/2012

ADDITIONAL EXT.P6: TRUE COPY OF THE PAPER NOTIFICATION DATED 6.4.2013
PUBLISHED IN THE MALAYALA MANORAMA

RESPONDENTS' EXHIBITS :NIL

//TRUE COPY//

P.A. TO JUDGE

DST

K. HARILAL, J.

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W.P. (C) No.29333 of 2012

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Dated this the 17th day of November, 2015

J U D G M E N T

Petitioners are owners and in possession of the lands comprised in Re-survey Nos.49/6A, 49/5A, 98/5A, 48/8B1, 48/84, 51/1, 27/3b, 22/7A, 27/4, 98/5A and 98/4 of Azhiyoor village. According to the petitioners, the properties are made under the acquisition process for the development of National Highway [Kannur -Kuttippuram(N.H. 17] and the authorities have published Section 3(a) Notification and in the said Notification petitioners' properties were also included but, name of the petitioners have not been shown as owners of the properties. Apprehending that properties of the petitioners also would be acquired, they filed Ext.P1 objection before the 3rd respondent. The 3rd respondent has passed an order, but copy of the same

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has not been served to the petitioners. Thereafter, the petitioners obtained Exts.P2 and P3 approved land acquisition plans, pursuant to the above Notification. The petitioners have also obtained final detailed project report in respect of the above acquisition, under the Right to Information Act. While so, the petitioners have noticed that respondents 3, 4 and 5 started to mark properties of the petitioners also in total violation of Exts.P2, P3 and P4. According to them, the alignment has been changed totally and the same is a fragrant violation from the approved plan, to the detriment of the petitioners. As per the new alignment, more curves have been appeared and too many commercial and residential buildings will be destroyed. Aggrieved by the new alignment, which was made in deviation from Exts.P2, P3 and P4, the petitioners have submitted Ext.P5 representation, before the 4th respondent. But,

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the 4th respondent has not passed any order on that petition. This is the grievance projected in this Writ Petition.

2. Learned Standing Counsel for the 5th respondent submits that the land acquisition proceedings have been initiated by the Central Government, a competent authority under Section 3(a) of the National Highway Act, 1956 has been appointed for the same and the 5th respondent at present has no role at all, in the acquisition proceedings and they have been omitted from the acquisition process by the Notification dated 14.08.2014, issued by the Central Government. It is also submitted that the 4th respondent is not the competent authority under Section 3(a) and the 3rd respondent is the competent authority.

3. Going by the averments in the Writ Petition and the arguments at the Bar, I do not find any *mala fides* or

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arbitrariness in the change of alignment. But, at the same time, I find that the petitioners have a right to be heard, as they will be deprived of the right and possession of their properties by the acquisition. In that view of the matter, petitioners are directed to file a representation before the 3rd respondent, who is the competent authority under the National High Act, 1956, within a period of two months from the date of receipt of a copy of this judgment and he shall dispose of the said representation, after affording an opportunity of being heard, to the petitioners.

This Writ Petition is disposed of accordingly.

Sd/-

**K. HARILAL,
JUDGE**

DST

//True copy//

P.A. To Judge