

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 23RD DAY OF SEPTEMBER 2015/1ST ASWINA, 1937

WP(C).No. 25700 of 2015 (J)

PETITIONER(S):

1. MARY, W/O.LATE JACOB AGED 56 YEARS
MATTAMMEL HOUSE, VYTTILA PETTA ROAD, THYKODAM
ERNAKULAM.
2. ROSE MARY, D/O.LATE JACOB,
MATTAMMEL HOUSE, VYTTILA PETTA ROAD,
THYKODAM, ERNAKULAM.
3. SIBY, S/O. .LATE JACOB,
MATTAMMEL HOUSE, VYTTILA PETTA ROAD
THYKODAM, ERNAKULAM.
4. GEORGE M.R., S/O.RAPHAEL, MATTAMMEL HOUSE,
VYTTILA PETTA ROAD, THYKODAM, ERNAKULAM.
5. SIMON M.R., S/O.RAPHAEL, MATTAMMEL HOUSE,
VYTTILA PETTA ROAD, THYKODAM, ERNAKULAM.
6. YUDHATHADEVOUS M.R., S/O.RAPHAEL,
MATTAMMEL HOUSE, V YTTILA PETTA ROAD,
THYKODAM, ERNAKULAM.
7. MARTIN M.R., S/O.RAPHAEL, MATTAMMEL HOUSE,
VYTTILA PETTA ROAD, THYKODAM, ERNAKULAM.

**BY ADVS.SRI.A.X.VARGHESE
SRI.A.V.JOJO**

RESPONDENT(S):

1. STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY, SECRETARIAT
THIRUVANANTHAPURAM 695 001.
2. DISTRICT COLLECTOR
COLLECTORATE, KAKKANADU, ERNAKULAM- 682 030.
3. DEPUTY COLLECTOR, LAND ACQUISITION,
ERNAKULAM, PIN 682 030.
4. SPECIAL TAHSILDAR, LAND ACQUISITION, NH III,
VYTTILA- KOCHI 682 019.

5. KOCHI METRO RAIL LTD, 8TH FLOOR,
REVENUE TOWER, PARK AVENUE
KOCHI-682 011 REP. BY AUTHORIZED OFFICER.

6. DELHI METRO RAIL CORPORATION, 2ND FLOOR,
GCDA EASTERN ENTRY TOWER, KARSHAKA ROAD,
ERNAKULAM SOUTH RAILWAY STATION,
KOCHI-682 016 REP. BY AUTHORIZED OFFICER.

R5 BY ADV. SRI.K.JAJU BABU (SR.)

R5 BY ADV. SMT.M.U.VIJAYALAKSHMI, SC, KOCHI METRO RAIL LTD.

R6 BY ADV. SMT.LATHA ANAND, SC, DELHI METRO RAIL CORPN.

R1-R4 BY ADV. SPECIAL GOVERNMENT PLEADER, SRI. TOM. K. THOMAS

R BY SMT.LATHA KRISHNAN, SC, DELHI METRO RAIL CORPN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
23-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 25700 of 2015 (J)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1 - TRUE COPY OF THE PARTITION DEED BEARING NO.1828/1/2000 OF
THRIPUNITHURA SUB REGISTRAR OFFICE.**

EXHIBIT P2 - PHOTOGRAPHS SHOWING THE HOUSES OF THE PETITIONERS.

RESPONDENT'S EXHIBITS:-

NIL

// True copy //

PA to Judge

das

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 25700 of 2015

Dated this the 23rd day of September, 2015

JUDGMENT

The petitioners are owners of property, that was notified for acquisition, in connection with the widening of the Vyttila-Petta road, for establishment of the Kochi Metro Rail. In the writ petition, the grievance of the petitioners, is essentially that they were not being paid sufficient compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, hereinafter referred to as "2013 Act", and that their claim for sufficient compensation has not been considered by the authorities thereunder.

2. A statement has been filed by the 4th respondent pursuant to direction in this Court. In the said statement, it is stated as follows:

- "1. It is submitted that an extent of 1.97 cents of land in Sy.No.1198/1 of Poonithura village is belonging to the petitioners is sought to be acquired for the widening of Vyttila - Petta road for the construction of the prestigious Metro Rail Project. It is submitted that the land will be taken as per the District Level Purchase Committee rate which is fixed as Rs.21 lakhs per cent. The petitioners are entitled to claim enhanced compensation, if eligible, under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.
2. The value of the building situated in the land is assessed by the PWD authorities as Rs.4,92,771/-. Apart from the above

the petitioners are also entitled to an amount of Rs.2,86,000/- under the Rehabilitation package of the Government.

3. It is further submitted that valuation of the building is done by the PWD as requested by the petitioners. Though only a portion of the building is acquired, the entire structure value is assessed as shown above.
4. The petitioners shall be entitled to compensation as stated above subject to the right to claim enhanced compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.”

It is also submitted by the learned Standing Counsel for the 4th respondent that the insistence on the petitioners vacating the property would be only after payment of 80% of the compensation amount as determined by them, in accordance with the criteria shown in the statement. It is further submitted that the payment as above, will be made to the petitioners, against their depositing their title deed pertaining to the property, before the authority, failing which, it is stated that the payment can be made before the Court below. Thus, recording the averments in the statement filed on behalf of the 4th respondent, and also the submissions of the learned Standing Counsel for the 4th respondent, the writ petition is closed.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE