

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

WEDNESDAY, THE 24TH DAY OF JUNE 2015/3RD ASHADHA, 1937

WP(C).No. 26012 of 2014 (B)

PETITIONER:

**THOTTADATH KUNHIPARU
W/O LATE KOVVAPURATH KUNHIKANNAN, RAMANTHALI AMSOM
RAMANTHALI DESOM, RAMANTHALI PO, KANNUR DISTRICT.**

**BY ADVS.SRI.M.SASINDRAN
SRI.P.K.SUBHASH**

RESPONDENTS:

- 1. THE SPECIAL TAHSILDAR(LA)
LAND ACQUISITION, EZHIMALA NAVAL ACADEMY PROJECT
PAYYANNUR - 670 307.**
- 2. THE DISTRICT COLLECTOR
KANNUR - 670 001.**

BY SR. GOVERNMENT PLEADER SRI. THOMAS JOHN AMBOOKEN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
24-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

DCS

WP(C).No. 26012 of 2014 (B)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1 : TRUE COPY OF THE APPLICATION FILED UNDER SECTION 28 A
FILED BY THE PETITIONER**

EXHIBIT P2 : TRUE COPY OF THE ORDER DATED 30.09.2009

**EXHIBIT P3 : TRUE COPY OF THE APPLICATION FILED BY THE PETITIONER
UNDER SECTION 28 A (3) OF THE LAND ACQUISITION ACT**

EXHIBIT P4 : TRUE COPY OF THE ORDER OF THE 2ND RESPONDENT

RESPONDENT(S)' EXHIBITS:- NIL

/TRUE COPY/

P.A. TO JUDGE

DCS

V. CHITAMBARESH, J

W.P.(C.) NO. 26012 OF 2014

Dated this the 24th day of June, 2015

JUDGMENT

An application for redetermination of compensation under Section 28A(3) of the Land Acquisition Act, 1894 can be on the basis of the following judgments:

- (i) A judgment on a reference passed under Section 18 of the Land Acquisition Act, 1894.
- (ii) A judgment under Section 28A(3) of the Land Acquisition Act, 1894 redetermining the compensation.

2. The authorities below erred in holding that an application under Section 28A(3) of the Land Acquisition Act, 1894 can be filed on the basis of a judgment passed under Section 18 of the said Act only. The issue is covered by the decision in **District Collector Vs. Muhammad Kunhi [2012 (4) KLT 360 (DB)]** and Exts.P2 and P4 orders militates against the dictum. I quash Exts. P2 and P4 orders rejecting the applications put in under Sections 28A(1) and 28A(3) of the Land Acquisition Act, 1894.

3. I direct the first respondent to reconsider Ext.P1 application filed under Section 28A(1) of the Land Acquisition Act, 1894. The same shall be done with notice to the petitioner within a period of two months from the date of production of a copy of this judgment. Every endeavour shall be made to take a decision on merits rather than non-suiting the petitioner on technical grounds.

4. The petitioner shall produce a copy of the writ petition with the judgment before the first respondent for compliance.

The writ petition is disposed of.

**V. CHITAMBARESH
JUDGE**

DCS