

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

WEDNESDAY, THE 27TH DAY OF MAY 2015/6TH JYAISHTA, 1937

WP(C).No. 29183 of 2011 (W)

PETITIONER:

K.P.JANARDHANAN, S/O.KUNHIRAMAN NAMBIAR,
AGED 36 YEARS, RESIDING AT KODIYATH HOUSE,
KANDANKALI, PAYYANNUR. (POWER OF ATTORNEY HOLDER
OF PANDARATHIL NARAYANANKUTTY).

BY ADV. SRI.V.N.RAMESAN NAMBISAN

RESPONDENTS:

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

BY GOVERNMENT PLEADER SRI. GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27-05-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) EXHIBITS

- EXHIBIT P1 : TRUE COPY OF APPLICATION DATED 04.04.1998 FOR RE-
DETERMINATION OF COMPENSATION IN RESPECT OF 24.5 CENTS
COMPRISED IN R.S. NO. 413/2 RAMANTHALI AMSOM.
- EXHIBIT P2 : TRUE COPY OF THE PROCEEDINGS NO. D.DIS 558/05/C DATED
11.03.2009 OF THE 2ND RESPONDENT.
- EXHIBIT P3 : TRUE COPY OF APPLICATION DATED 21.04.2009 UNDER SECTION
28A(3) OF THE LAND ACQUISITION.
- EXHIBIT P4 : TRUE COPY OF ORDER NO. D.DIS. 1023/09/D DATED 04.11.2010
ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P5 : TRUE COPY OF APPLICATION FOR RE-DETERMINATION OF
COMPOENSATION IN RESPECT OF LAND ADMEASURING 1.46
ACRES COMPRISED IN R.S. 236/1A/1A/1A OF RAMANHALLI AMSOM.
- EXHIBIT P6 : TRUE COPY OF PROCEEDINGS D.DIS. 559//C DATED 18.03.2009 OF
THE 2ND RESPONDENT.
- EXHIBIT P7 : TRUE COPY OF APPLICATION 21.04.2009 APPLICATION FOR RE-
DETERMINATIONO F COMPENSATION UNDER SECTION 28A(3) OF
THE LAND ACQUISITION ACT.
- EXHIBIT P8 : TRUE COPY OF ORDER D.DIS 1025/09/D DATED 04.11.2010 OF THE
2ND RESPONDENT.

RESPONDENT(S) EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE.

V. CHITAMBARESH, J

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Dated this the 27th day of May, 2015

JUDGMENT

Ext.P1 application dated 04.04.1998 and Ext.P5 application dated 04.04.1998 were filed under Section 28A(1) of the Land Acquisition Act, 1894 in respect of the property comprised in Sy. Nos. 413/2 and 236/1A,1A,1A of Ramanthali village. Exts.P1 and P5 applications were rejected by Ext.P2 order dated 11.03.2009 and Ext.P6 order dated 18.03.2009 on the ground that it is not maintainable. The only reason stated therein is that such applications cannot be filed on the basis of a revised judgment in a Land Acquisition Reference. The said view is palpably wrong and runs counter to the settled decisions of this Court. Exts. P2 and P6 orders are accordingly quashed necessitating the reconsideration of Exts.P1 and P5 applications on merit.

2. Ext.P3 application dated 21.04.2009 and Ext.P7 application dated 21.04.2009 were filed under Section 28A(3) of the Land Acquisition Act in respect of the property comprised in Sy. Nos. 413/2 and 236/1A,1A,1A. Exts.P3 and P7 applications have been rejected by Ext.P4 order dated 04.11.2010 and Ext.P8

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order dated 04.11.2010 as not maintainable in law. The fact that Exts.P1 and P5 applications were rejected as barred by time is the reason stated to hold that Exts.P3 and P7 applications are not maintainable. I have already set aside Exts.P2 and P6 orders and there is therefore no necessity to reconsider Exts. P3 and P7 applications afresh.

3. The Government Pleader expressed a doubt as to whether the petitioner had earlier filed an application under Section 18 of the Land Acquisition Act, 1894. I clarify that the application under Section 28A(1) of the Land Acquisition Act is not maintainable if the petitioner had earlier invoked Section 18 of the Land Acquisition Act, 1894. This aspect of the matter shall also be borne in mind by the second respondent while reconsidering Exts.P1 and P5 applications anew. Orders shall be passed after notice to the petitioner within a period of two months from the date of receipt of a copy of this judgment.

The Writ Petition is disposed of.

**V. CHITAMBARESH
JUDGE**

ncd