

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

WP(C).No. 30152 of 2008 (M)

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AGAINST THE JUDGMENT IN LAR 76/2006 of II ADDL.SUB COURT,
THRISSUR DATED 18-06-2008
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PETITIONER:

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NIZAMUDHEEN, MANAGING DIRECTOR,
SOLAR APARTMENT, GURUVAYOOR.**

**BY ADVS.SRI.VIVEK VARGHESE P.J.
SRI.P.J.VINOD JOSEPH**

RESPONDENTS:

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- 1. THE SPEPCIAL TAHSILDAR (L.A)
GURUVAYUR DEVASWAM, GURUVAYUR.**
 - 2. THE ADMINISTRATOR, GURUVAYUR
DEVASWOM, GURUVAYUR.**
 - 3. THE DISTRICT COLLECTOR,
THRISSUR.**

**R1 & R3 BY SR. GOVERNMENT PLEADER SRI. THOMAS JOHN AMBOOKEN
R2 BY ADV. SRI.V.KRISHNA MENON**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
02-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

DCS

WP(C).No. 30152 of 2008 (M)

APPENDIX

PETITIONER(S)' EXHIBITS :-

**P1 : COPY OF THE JUDGMENT DATED 18TH JUNE 2008 BY THE SUB COURT,
THRISSUR IN LAR NO. 76/2006**

**P2 : COPY OF APPLICATION DATED 31.10.2002 BY THE PETITIONER TO THE 1ST
RESPONDENT**

RESPONDENT(S)' EXHIBITS:- NIL

/TRUE COPY/

P.A. TO JUDGE

DCS

V. CHITAMBARESH, J

W.P.(C). NO. 30152 OF 2008

Dated this the 2nd day of June, 2015

JUDGMENT

The petitioner asserted that he was neither present nor was represented before the Collector when Award No. 5/2002 was passed. It was then incumbent on the respondents to establish by evidence that the petitioner was either present or was represented before the Collector. No evidence on that count was produced by the respondents in which case the petitioner can file an application for reference within six months from the date of award.

2. It is beyond dispute that the petitioner filed the application for reference under Section 18 of the Land Acquisition Act, 1894 on 05.11.2002. The same was within six months from 08.05.2002 which was the date on which Award No. 5/2002 was passed. It therefore follows that the application for reference filed by the petitioner is in time under Section 18(2)(b) of the Land Acquisition Act, 1894.

3. I would have relegated the petitioner to an appeal under Section 54 of the Land Acquisition Act, 1894 in the normal circumstances. But then 7 years have elapsed since

the date of judgment in L.A.R.No. 76/2006 and the finding therein is that the court below has no jurisdiction to determine the dispute. The finding on jurisdiction is rested on the fact that the application under Section 18 of the Land Acquisition Act, 1894 is filed out of time. I am unable to subscribe to the view stated in the judgment in L.A.R. No. 76/2006 and I set aside the same.

4. I direct the Court of the Subordinate Judge of Thrissur to answer L.A.R. No. 76/2006 afresh on merits after affording an opportunity to the parties to adduce evidence. Every endeavour shall be made to pass a revised award within a period of four months from the date of receipt of a copy of this judgment. Needless to say that the remand is for the purpose of considering the entitlement of the petitioner for enhancement of compensation if any. The Registry to send down the records, if any, forthwith.

The writ petition is disposed of.

**V. CHITAMBARESH
JUDGE**

DCS