

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

TUESDAY, THE 27TH DAY OF OCTOBER 2015/5TH KARTHIKA, 1937

WP(C).No. 29196 of 2013 (Y)

PETITIONER:

K.ZEENATH BEEVI
T C 20/2044, BUHARI MANZIL,
KARAMANA P O, TRIVANDRUM

BY ADV. SRI.C.K.SREEJITH

RESPONDENTS:

1. THE DISTRICT COLLECTOR
COLLECTORATE, CIVIL STATION, KUDAPPANAKKUNNU
THIRUVANANTHAPURAM-695043
2. THE DEPUTY COLLECTOR(LA OFFICER)
COLLECTORATE, CIVIL STATION, KUDAPPANAKKUNNU
TRIVANDRUM-695043
3. SUSEELA DEVI T., AGED 65 YEARS,
W/O.LATE SASIDHARAN NAIR, RESIDING AT ANJUMURIVEEDU,
OPPOSITE CENTRAL WORKS, PAPPANAMCODE P O
THIRUVANANTHAPURAM-695018

R3 BY ADV. SRI.DIPU.R
R1 & R2 BY GOVERNMENT PLEADER SRI P.P.PADMALAYAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- P1:- TRUE COPY OF THE RECEIPT ISSUED BY THE 2ND RESPONDENT
P2:- TRUE COPY OF THE RENTAL AGREEMENT EXECUTED BY SMT MINU, THE DAUGHTER OF 3RD RESPONDENT WITH THE PETITIONER
P3:- TRUE COPY OF THE JUDGMENT IN WPC NO 23736/2013 ON THE FILE OF THIS COURT
P4:- TRUE COPY OF THE NOTICE ISSUED TO THE PETITIONER BY THE 2ND RESPONDENT DTD 17/10/2013
P5:- TRUE COPY OF THE NOTICE DTD 15/10/2013 IN LAC NO 87/2013 ISSUED BY THE 2ND RESPONDENT
P6:- TRUE COPY OF THE NOTICE IN RESPECT OTHER PERSON SMT.LATHEEFA BEEVI IN LAC NO 87/2013
P7:- COPY OF LETTER DT.4.2.2015 ISSUED BY THE DEPUTY COLLECTOR, TRIVANDRUM.
P8: COPY OF ORDER PASSED IN I.A.No.2583/14 IN O.S.No.544/14 DT.18.7.14.

RESPONDENTS' EXHIBITS:

EXT.R3(A): COPY OF PLAINT IN O.S.No.1124/2013 BEFORE THE MUNSIFF'S COURT, THIRUVANANTHAPURAM.

EXT.R3(B): COPY OF PLAINT IN O.S.No.544/14 BEFORE THE MUNSIFF'S COURT, THIRUVANANTHAPURAM.

EXT.R3(C): COPY OF LETTER No.K4-15899/14 DT.10.11.2014.

TRUE COPY

P.S.TO JUDGE

ANIL K.NARENDRA, J

W.P.(C.)No.29196 Of 2013

DATED THIS THE 27th DAY OF OCTOBER, 2015

JUDGMENT

The petitioner, who is stated to be the owner of 1.95 Ares of land in Re-survey No.14/10 of Nemom Village, has filed this Writ Petition seeking a writ of mandamus commanding respondents 1 and 2 to disburse the compensation in respect of the acquisition of the aforesaid land, without depositing the same before the Sub Court, Thiruvananthapuram, in terms of Ext.P3 judgment of this Court. He has also sought for a writ of mandamus commanding the 2nd respondent to pass an award under the new scheme under the District Level Purchase Committee, as agreed by the petitioner and 1st respondent and disburse the amount without delay.

2. The pleadings on record would show that there is some dispute between the petitioner and the 3rd respondent regarding the right over the property in question. As evident from the objection filed by the 3rd respondent to I.A.No.7777/2015, O.S.No.1124/2013 filed by the 3rd respondent seeking a decree declaring that she is entitled to receive compensation amount including its enhancement

for the acquisition of the property in question, in connection with the widening of Karamana-Kaliyikkavila road, is now pending consideration before the Munsiff's Court, Thiruvananthapuram. Ext.R3(c) letter of the Deputy Collector (LA), Thiruvananthapuram, addressed to the Principal Sub Judge, Thiruvananthapuram would also show that an award has already been passed on 15.10.2013 and the land in question was taken possession and handed over to the PWD Roads Division on 17.2.2014. Since the claimants have not proved their title over the acquired property, the compensation amount was deposited in court under Section 31(2) of the Land Acquisition Act. After deducting a sum of ₹10,88,301/- towards income-tax, the balance amount of ₹43,53,203/- has already been deposited in court.

3. In that view of the matter, this Court will not be justified in exercising the discretionary jurisdiction under Article 226 of the Constitution of India. It is for the petitioner/3rd respondent to establish their title over the property in question, in order to claim the compensation amount already deposited in

the Sub Court. Leaving open the aforesaid plea of the petitioner and the 3rd respondent, this Writ Petition is dismissed.

The learned counsel for the petitioner would submit that since the amount is lying in court deposit, appropriate orders may be passed directing the Sub Court to keep the aforesaid amount in fixed deposit so as to ensure that the said amount will fetch interest during the pendency of the suit. It is for the petitioner/3rd respondent to make an appropriate application before the Sub Court for the said relief. The dismissal of this Writ Petition will not stand in the way of the petitioner or the 3rd respondent filing such application before the Sub Court.

Sd/-
ANIL K.NARENDRA,
JUDGE

dsn

//True copy

P.S. to Judge//