

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 28TH DAY OF OCTOBER 2015/6TH KARTHIKA, 1937

WP(C).No. 28694 of 2014 (J)

PETITIONER:

**M/S. GLEN LEVEN ESTATE (P) LTD.,
VARAYAL P.O, WAYANAD - 670644,
REP BY ITS MANAGING DIRECTOR,
P.C IBRAHIM, S/O.MAMMU, AGED 48 YEARS,
PADINHARAYI HOUSE, WAYANAD DISTRICT.**

**BY ADVS.SRI.BIJU ABRAHAM
SRI.B.G.BHASKAR
SMT.NIMMY JOHNSON**

RESPONDENTS:

- 1. THE STATE OF KERALA, REP. BY
THE CHIEF SECRETARY, GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM-695001.**
- 2. THE PRINCIPAL SECRETARY TO GOVERNMENT,
REVENUE (B) DEPARTMENT,
THIRUVANANTHAPURAM-695001.**
- 3. THE DISTRICT COLLECTOR, WAYANAD DISTRICT,
CIVIL STATION, KALPETTA-673121.**

***ADDL. R4 & R5 IMPEADED**

- 4. V.KUNHIKRISHNAN MASTER, AGED 63 YEARS,
S/O.NARAYANAN NAMBIAR, SINDHU SADANAM, KOMBARA,
POROOR WAYANAD POST, WAYANAD DISTRICT.**
- 5. MADHAVI NETHYARAMMA, AGED 84 YEARS,
W/O.LATE ANANDAN NAMBIAR, KALLUMOTTAMMAL HOUSE,
P.O.VALAD, MANANTHAVADI TALUK, WAYANAD DISTRICT.**

**ADDL.R4 AND R5 ARE IMPEADED AS PER ORDER
DATED 12.03.2015 IN IA.3586/15.**

**R1 TO R3 BY SENIOR GOVT. PLEADER SRI.R.PADMARAJ
ADDL.R4 & R5 BY ADV. SRI.N.M.MADHU**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 28-10-2015 ALONG WITH WPC. 28831/2014, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- P1:- A TRUE COPY OF THE NOTIFICATION U/S.4(1) OF THE LAND ACQUISITION ACT, 1894, DTD 3/6/2013.
- P2:- A TRUE COPY OF THE MINUTES OF THE PROCEEDINGS DTD 29/11/2013.
- P3:- A TRUE COPY OF THE SALE DEED NO 1777/1950 OF SRO TELLICHERRY DTD. 21/8/1950.
- P4:- A TRUE COPY OF THE ORIGINAL LEASE DEED BY THE VARAYAL EDAM TO JOSEPH DTD. 20/6/1941.
- P5:- A TRUE COPY OF THE FINAL ORDER OF THE TALUK LAND BOARD DTD. 2/1/2012.
- P6:- A TRUE COPY OF THE OPINION OF THE ADVOCATE GENERAL DTD. 21/2/2014.
- P7:- A TRUE COPY OF THE ORDER G O(RT)NO 3898/14/RD DTD. 19/8/2014.
- P8:- A TRUE COPY OF THE ORDER NO 47316/B2/14/RD DTD 30/8/2014.
- P9:- A TRUE COPY OF THE NOTICE DTD. 18/10/2014.
- P10:- A TRUE COPY OF THE REPLY OF THE PETITIONER DTD. 27/10/2014.
- P11:- A TRUE COPY OF THE SALE DEED NO 1080 OF 2012 OF S R O MANANTHAVADY DTD. 21/3/2012.

RESPONDENT(S)' EXHIBITS & ANNEXURES:

- ANNEXURE R2(A) : TRUE COPY OF THE CABINET NOTE.
- ANNEXURE R2(B) : TRUE COPY OF THE DECISION TAKEN BY THE CABINET ON 10.12.2014.
- ANNEXURE R2(C) : TRUE COPY OF THE FORMAT RELATING TO THE VALUATION OF LAND.
- ANNEXURE R2(D) : TRUE COPY OF THE CALCULATION SHEETS RELATING TO VALUATION OF IMPROVEMENTS.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.M. SHAFFIQUE, J.

=====

W.P. (C) Nos. 28694 & 28831 of 2014

=====

Dated this, the 28th day of October, 2015

J U D G M E N T

These writ petitions are filed with reference to certain item of property taken over by the Government. The ownership of the property is claimed by the petitioners in WP(C) No.28831/2014 and the petitioner in WP(C) No.28694/2014 is admittedly the lessee of the landlord. The property was a rubber estate which was taken over by the Government after issuing notice to the parties. There is no dispute regarding the taking over of the properties. Even according to the Government, Government is liable to pay the value of improvements to the landlord. However, there is dispute between the landlord and lessee regarding the entitlement to receive the value of improvements. The landlord and the lessee also have a claim that they are entitled for value of the land as well. Apparently these issues cannot be decided by this Court in a petition filed under Article 226 of the Constitution of India especially when the Government has taken a contention that the land had vested in the Government under Section 72 of

-:2:-

the Kerala Land Reforms Act, which of course is disputed by the learned counsel appearing for the writ petitioners.

Under such circumstances, the dispute raised in the present writ petitions can be resolved only by approaching the Civil Court and accordingly these writ petitions are disposed of as under;

(1) Petitioners are permitted to approach the Civil Court for seeking appropriate relief in respect of their claims with the Government as well as inter se.

(2) That the Government shall deposit the entire amount relating to the value of improvements before a Nationalised Bank in a Fixed Deposit and the Fixed Deposit receipt shall be produced before the Court in the suit to be filed by the petitioners as aforesaid.

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

29/10/2015

//True Copy//

P.S to Judge