

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

WP(C).No. 32151 of 2013 (T)

PETITIONERS:

1. **M.M. NAZAR
S/O. MARAKKAR
MARTRAKKATTU HOUSE
PINARMUNDA, PERINGALA P.O.
PIN - 683 565, KUNNATHUNADU VILLAGE
ERNAKULAM DISTRICT**
2. **C.P. SETHU MUHAMMED
S/O. PAREED, CHAKALAKUZHIYIL HOUSE
PERINGALA KARA
KUNNATHUNADU VILLAGE, PERINGALA P.O.,
PIN - 683 565
ERNAKULAM DISTRICT**

**BY ADVS.SRI.VARGHESE K.PAUL
SRI.ANITH JAMES**

RESPONDENTS:

1. **STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT
GOVERNMENT SECRETARIAT, THIRUVANANATHAPURAM - 695 001**
2. **DISTRICT COLLECTOR
DISTRICT COLLECTORATE,
KAKKANAD - 682 030**
3. **SPECIAL TAHSILDAR (LA)
KOCHI REFINERIES LTD.
NORTH FORT GATE
THRIPUNITHURA - 682 301**
4. **THE LAND REVENUE COMMISSIONER
GOVT. OF KERALA, PUBLIC OFFICE BUILDING
MUSEUM JN, THIRUVANANTHAPURAM - 33**

DCS

WP(C).No. 32151 of 2013 (T)

- 5. INFO PARK, KAKKANAD
ERNAKULAM 682 030
REP. BY ITS CHIEF EXECUTIVE OFFICER**

**R1 TO R4 BY GOVERNMENT PLEADER SRI. JOE KALLIATH
R5 BY ADVS. SRI.M.GOPIKRISHNAN NAMBIAR
SRI.P.GOPINATH
SRI.P.BENNY THOMAS
SRI.K.JOHN MATHAI**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 21-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

DCS

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 :** COPY OF THE 4(1) NOTIFICATION PUBLISHED IN THE MALAYALAM DAILY "MATHRUBHOOMI" DATED 22.07.2012
- P2 :** COPY OF THE DRAFT DECLARATION DATED 30.09.2013 PUBLISHED IN THE MALAYALAM DAILY "MATHRUBHOOMI" DATED 28.11.2013
- P3 :** COPY OF THE REPRESENTATION DATED 10.07.2012
- P4 :** COPY OF THE ORDER DATED 23.05.2008 EXEMPTING THE PROPERTIES OF LAND OWNERS
- P5 :** COPY OF THE ORDER DATED 19.08.2009 EXEMPTING THE PROPERTIES OF LAND OWNERS
- P6 :** COPY OF THE ORDER DATED 20.07.2010 EXEMPTING THE PROPERTIES OF LAND OWNERS
- P7 :** COPY OF THE REQUEST LETTER MADE BY THE 5TH RESPONDENT DATED 06.11.2008
- P8 :** COPY OF THE AWARD NO. 120 DATED 30.12.2013 ALONG WITH THE NOTE TO THE AWARD
- P9 :** COPY OF THE NOTICE UNDER SEC. 9(1) ADDRESSED TO THE 1ST PETITIONER
- P10 :** COPY OF THE AWARD NOTICE DATED 20.01.2014
- P11 :** COPY OF THE INTIMATION OF THE THIRD RESPONDENT DATED 19.06.2014 ADDRESSED TO THE PETITIONERS

RESPONDENT(S)' EXHIBITS:-

- R3(a) & (b):-** COPIES OF THE NOTICE ISSUED IN FORM 4(b) PUBLISHED ON 31.10.2012
- R3(c):-** COPY OF THE ERRATUM NOTIFICATION DATED 19.8.2013
- R3(d):-** COPY OF MINUTES OF THE MEETING
- R3(e) & (f):-** COPIES OF THE CONSENT LETTERS OF THE PETITIONERS

/TRUE COPY/

P.A. TO JUDGE

V. CHITAMBARESH, J

W.P.(C). No. 32151 of 2013

Dated this the 21st day of January, 2015

JUDGMENT

The award in the instant case was passed on 30.12.2013 when the Land Acquisition Act, 1894 was in force. But possession was taken on 17.02.2014 only after the coming into force of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 on 01.01.2014. The compensation amount has also been deposited in LAR No. 25/2014 on the file of the Court of the Subordinate Judge of Perumbavoor on 03.05.2014.

2. The proceedings should continue under the provisions of the Land Acquisition Act, 1894 only as per Section 24(1)(b) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The compensation is liable to be worked out in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 only if the conditions therein apply.

3. The petitioners have no case that the award in question was made five years prior to the commencement of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Therefore the proviso to Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 does not apply and the petitioners have to be rest contented with the compensation under the Land Acquisition Act, 1894.

4. The petitioners are free to apply for cheque and have the amount released on motion made in LAR No. 25/2014 on the file of the Court of the Subordinate Judge of Perumbavoor. No other contentions are urged.

The writ petition is disposed of.

**V. CHITAMBARESH
JUDGE**

DCS