

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

THURSDAY, THE 9TH DAY OF JULY 2015/18TH ASHADHA, 1937

WP(C).No. 33384 of 2008 (Y)

PETITIONER:

**KAVINISSERI CHANDRAMATHI AMMA,
D/O.DEVAKI AMMA, AGRICULTURIST, KUTHUPARAMBA AMSOM
NARAVOOR DESOM, P.O.THALASSERI.**

**BY ADVS.SRI.K.RAMAKUMAR (SR.)
SRI.J.R.PREM NAVAZ
SMT.SMITHA GEORGE**

RESPONDENTS:

**1. THE SPECIAL TAHSILDAR (LA)
THALASSERI, P.O.THALASSERI.**

**2. KUTHUPARAMBA MUNICIPALITY
REPRESENTED BY ITS SECRETARY, P.O. KUTHUPARAMBA.**

*** ADDL. R3 IMPEADED**

**3. MR. SUDHAKARAN, VADAKEVEETIL PARAMBIL
P.R. NAGAR P.O. (VIA), MATTANNUR, KANNUR DISTRICT**

*** IMPEADED AS PER ODER DATED 9.10.2009 IN I.A. NO. 12259/2009 IN W.P.C**

**R1 BY SR. GOVERNMENT PLEADER SRI. THOMAS JOHN AMBOOKEN
R2 BY ADV.SRI.P.V.SURENDRANATH**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
09-07-2015, ALONG WITH W.P.(C).NO. 5340/2009, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:**

DCS

APPENDIX

PETITIONER(S)' EXHIBITS

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- P1. TRUE COPY OF THE DHANANISCHAYADHARAM EXECUTED AND REGISTERED IN THE NAME OF THE PETITIONER IN 1995**
 - P2. TRUE COPY OF THE DHANANISCHAYADHARAM EXECUTED AND REGISTERED IN THE NAME OF THE PETITIONER IN 1995 & 2001**
 - P3. TRUE COPY OF THE NOTICE RECEIVED BY THE PETITIONER FROM THE 1ST RESPONDENT**
 - P4. TRUE COPY OF THE PHOTO OF THE SHOP BUILDING**
 - P5. TRUE COPY OF NOTICE NO. C768/08 DATED 25.04.2008 ISSUED BY THE REGIONAL JOINT DIRECTOR, KOZHIKODE**
 - P6. TRUE COPY OF RESOLUTION NO. 45 DATED 22.11.2008 BY R2 MUNICIPALITY**
 - P7. TRUE COPY OF NOTICE NO. A60/07(14) DATED 9.1.2009 ISSUED BY R1**
 - P8. TRUE COPY OF NOTICE 60/07 DATED 9.2.2009 ISSUED BY R1 DIRECTOR, KOZHIKODE**

(IN I.A. NO. 12259/2009)

- P9. TRUE COPY OF NOTICE NO.FA 60/07(2) DATED 22.9.2009 ISSUED BY SPECIAL TAHSILDAR (LA) THALASSERY**
- P10. TRUE COPY OF NOTICE NO. FA/60/07(2) DATED 22.9.2009 ISSUED BY SPECIAL TAHSILDAR (LA) THALASSERY TO ONE BIJU K.**
- P11. TRUE COPY OF NOTICE DATED 25.02.2009 ISSUED BY THE PRINCIPAL SECRETARY, LOCAL SELF GOVT. DEPARTMENT, GOVERNMENT OF KERALA**
- P12. TRUE COPY OF THE RECEIPT FOR REMITTANCE OF LICENCE FEE ISSUED BY THE KUTHUPARAMBA MANICIPALITY TO ONE MR. REJEESH K ALONG WITH KACHEET**

(IN I.A. NO. 3749/2010)

- P9. TRUE COPY OF RECEIPT FOR PAYMENT OF FEE FOR LICENCE FOR THE YEAR 2009-10 ISSUED BY THE KUTHUPARAMBU MUNICIPALITY**
- P9(a). TRUE COPY OF RECEIPT FOR PAYMENT OF FEE FOR LICENCE FOR THE YEAR 2009-10 ISSUED BY THE KUTHUPARAMBU MUNICIPALITY**
- P9(b). TRUE COPY OF RECEIPT FOR PAYMENT OF FEE FOR LICENCE FOR THE YEAR 2009-10 ISSUED BY THE KUTHUPARAMBU MUNICIPALITY**

WP(C).No. 33384 of 2008 (Y)

P10. TRUE COPY OF APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE KUTHUPARAMBA MUNICIPALITY FOR LICENCE FOR THE YEAR 2010-11

P10(a) TRUE COPY OF APPLICATION SUBMITTED BY THE PETITIONER'S SON BEFORE THE KUTHUPARAMBA MUNICIPALITY FOR LICENCE FOR THE YEAR 2010-2011 BEFORE THE KUTHUPARAMBA MUNICIPALITY FOR LICENCE FOR THE YEAR 2010-11

P10(b) TRUE COPY OF APPLICATION SUBMITTED BY THE PETITIONER'S SON BEFORE THE KUTHUPARAMBA MUNICIPALITY FOR LICENCE FOR THE YEAR 2010-11

RESPONDENT(S)' ANNEXURE:-

ANNEXURE R2(A): COPY OF THE RESOLUTION NO. 39 DATED 16.11.2009

/TRUE COPY/

P.A.TO JUDGE

DCS

V. CHITAMBARESH, J

**W.P.(C). Nos. 33384 of 2008 &
5340 of 2009**

Dated this the 9th day of July, 2015

JUDGMENT

It is reported that Award No. 1/2009 dated 09.01.2009 has been passed under the Land Acquisition Act, 1894 in relation to the property in question. The petitioners lament that the building constructed in the property has not been valued for the purpose of the land acquisition compensation.

2. The petitioners assert that the building constructed with the permission of the Kuthuparamba Municipality before Section 6 of the declaration is liable to be valued. The respondents on the other hand maintain that any building constructed after Section 4(1) notification cannot be valued for the purpose of compensation.

3. As to when the building was constructed in the land is a matter for evidence. It is only proper that the reference court deals with the issue after the evidence is let in by the parties.

4. I permit the petitioner in W.P.(C). No. 33384 of 2008 to file an application for reference under Section 18 of the Land Acquisition Act, 1894. Such application shall be filed within a period of six weeks from today. The District Collector/Special Tahsildar (LA) shall refer the matter to the Court of the Subordinate Judge. It is submitted that the compensation amount is already in court deposit. The petitioner in W.P.(C). No. 33384/2008 is free to receive the compensation already awarded. The entitlement to the value of the building can be considered in the reference under Section 18 of the Land Acquisition Act, 1894.

The writ petitions are disposed of.

**V. CHITAMBARESH
JUDGE**

DCS