

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 19TH DAY OF OCTOBER 2015/27TH ASWINA, 1937

WP(C).No. 30680 of 2015 (H)

PETITIONER(S):

**KUMARI SEBASTIAN, AGED 60 YEARS,
W/O. SEBASTIAN, KATTUMANA, ATHANI,
NEDUMBASSERY, NOW RESIDING AT E28,
WILLINGTON ENCLAVE, THEVARA FERRY ROAD.**

**BY ADVS.SRI.MOHAN JACOB GEORGE,
SMT.P.V.PARVATHI,
SMT.REENA THOMAS.**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY TO GOVERNMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 2. THE DISTRICT COLLECTOR,
ERNAKULAM DISTRICT, CIVIL STATION,
KAKKANAD, KOCHI-682 030.**
- 3. THE DEPUTY COLLECTOR,
KOCHI METRO RAIL PROJECT, CIVIL STATION,
KAKKANAD, KOCHI-682 030.**
- 4. THE SPECIAL TAHSILDAR (LA) NO.1,
KOCHI METRO RAIL PROJECT, CIVIL STATION,
KAKKANAD, KOCHI-682 030.**
- 5. KOCHI METRO RAIL LTD.,
8TH FLOOR, REVENUE TOWER, KOCHI-682 011,
REPRESENTED BY ITS MANAGING DIRECTOR.**

**R1 TO R4 BY GOVT. PLEADER SRI.TOM K.THOMAS.
R5 BY SRI.K.JAJU BABU, SENIOR ADVOCATE.
ADV. SMT.M.U.VIJAYALAKSHMI, SC.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT-P1:** TRUE COPY OF THE NOTICE DATED 15.10.2014 ISSUED BY THE 2ND RESPONDENT AND RECEIVED BY THE PETITIONER WITH OBJECTION ENDORSED THEREON.
- EXHIBIT-P2:** TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER UNDER RIGHT TO INFORMATION ACT BEFORE THE PUBLIC INFORMATION OFFICER, DISTRICT COLLECTORATE, ERNAKULAM.
- EXHIBIT-P3:** TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER UNDER RIGHT TO INFORMATION ACT BEFORE THE PUBLIC INFORMATION OFFICER & SPECIAL TAHSILDAR (LA) OFFICE NO.1, KOCHI METRO RAIL PROJECT, CIVIL STATION, KAKKANAD.
- EXHIBIT-P4:** COPY OF REPLY DATED 01.11.2014 TO EXT.P2 ISSUED BY THE STATE PUBLIC INFORMATION OFFICER & DEPUTY COLLECTOR (GENERAL), COLLECTORATE, ERNAKULAM.
- EXHIBIT-P5:** TRUE COPY OF THE SAID COMMUNICATION DATED 11.11.2014 ISSUED BY THE PUBLIC INFORMATION OFFICER & JUNIOR SUPERINTENDENT, KOCHI METRO RAIL PROJECT, KAKKANAD.
- EXHIBIT-P6:** COPY OF THE I.A. FILED IN W.P.(C) NO.31651/2014 SEEKING PAYMENT OF 100% OF SOLATUM TO THE PETITIONER.
- EXHIBIT-P7:** COPY OF THE AWARD DATED 29.05.2015 IN L.A.C.NO.4/2014 AWARD NO.3/15 (UNDER SECTION 12(2) OF THE LAND ACQUISITION ACT 1894) PASSED BY THE RESPONDENTS.
- EXHIBIT-P8:** COPY OF THE JUDGMENT DATED 29.09.2015 IN W.P.(C) NO.31651/2014.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 30680 of 2015
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Dated this the 19th day of October, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P7 award passed by the respondents under the Land Acquisition Act, 1894. The grievance of the petitioner in the writ petition is essentially that, inasmuch as the award was passed subsequent to the coming into force of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, hereinafter referred to as “2013 Act”, it was incumbent upon the respondents to consider the provisions of the said Act and pass an award, taking into account the provisions relating to determination of compensation under the 2013 Act.

2. I have heard the learned counsel appearing for the petitioner as also the learned Government Pleader appearing for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, and finding that the award ought to have been passed in terms of 2013 Act, I direct the respondents to pass a fresh award in terms of the provisions of the

2013 Act in this case, by treating Ext.P7 as a provisional award, that was passed in the case of the petitioner. The respondents shall pass a fresh award, as directed, within three months from the date of receipt of a copy of this judgment.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE