

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 2ND DAY OF NOVEMBER 2015/11TH KARTHIKA, 1937

WP(C).No. 31340 of 2014 (N)

PETITIONER :

**OMANA, AGED 59 YEARS, W/O.K.R.SAHADDEVAN,
PUTHENVELIYIL, K.R.PURAM P.O.,
CHERTHALA, PIN - 688 556.**

**BY ADVS.SRI.G.D.PANICKER
SMT.JEENA JOSEPH
SMT. BEENA P JOSEPH**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
ALAPPUZHA, PIN - 688 001.**
- 2. SPECIAL TAHSILDAR,
LAND ACQUISITION, CHERTHALA, PIN -688 524.**
- 3. MANAGING DIRECTOR,
KERALA STATE INDUSTRIAL DEVELOPMENT CORPORATION,
(KSIDC), THIRUVANANTHAPURAM, PIN - 695 001.**

**R1 & R2 BY GOVERNMENT PLEADER SRI.LIJU V. STEPHEN
R3 BY ADV. SRI.JOBY CYRIAC, SC, KSIDC**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 02-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

WP(C).No. 31340 of 2014 (N)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P-1: A TRUE PHOTOCOPY OF THE JUDGEMENT IN LAA NO.70/2004
DATED 16.1.2014**
- EXT.P-2: A TRUE PHOTOCOPY OF THE REPRESENTATION OF THE PETITIONER
DATED 29.1.2014 TO THE 2ND RESPONDENT**
- EXT.P-3: A TRUE PHOTOCOPY OF THE LETTER NO.LAR NO.124/2002, DATED
30.4.2014 FOR THE 2ND RESPONDENT**
- EXT.P-4: A TRUE PHOTOCOPY OF THE REQUEST OF THE PETITIONER DATED
23.5.2014 TO THE 2ND RESPONDENT**
- EXT.P-5: A TRUE PHOTOCOPY OF THE LETTER DATED 28.10.2014 FROM THE
2ND RESPONDENT**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.S.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.31340 OF 2014 (N)

Dated this the 2nd day of November, 2015

J U D G M E N T

The grievance of the petitioner in the writ petition is against Ext.P3 order of the 2nd respondent, whereby, her request for reference under Section 18 of the Land Acquisition Act [hereinafter referred to as the 'LA Act'], was rejected by the 2nd respondent. The case of the petitioner essentially is that there was a dispute regarding the ownership of the property of four cents in Sy.No.186/11A/C, and for this reason, the Land Acquisition Officer deposited the award amount with the Sub Court, Cherthala, under Section 31(2) of the LA Act pending adjudication of the dispute as regards title. The Sub Court, Cherthala found against the petitioner on the issue of title to the said property of four cents. The petitioner therefore preferred an appeal before this Court, and as per Ext.P1 judgment, this Court found the petitioner to be the owner of the property in question. Immediately on receipt of Ext.P1 judgment, the petitioner approached the Sub Court, Chethala, and received the compensation amount deposited before that court under protest and immediately thereafter intimated

the 2nd respondent as per Ext.P2 communication that the amount of compensation awarded was inadequate and she was receiving the amount under protest. It was thereafter that she requested the 2nd respondent to refer the matter for enhanced compensation to the Sub Court, Cherthala, under Section 18 of the LA Act. The said request of the petitioner was rejected by the 2nd respondent by Ext.P5 communication, wherein, a reference is made to legal advice received from the Additional Government Pleader to the effect that the petitioner's application could not be considered under Section 18 of the LA Act on account of the delay in approaching the 2nd respondent with such an application.

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

3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find force in the contention of counsel for the petitioner that a request for reference in accordance with Section 18 of the LA Act could have been made by the petitioner only pursuant to the finding by this Court in favour of

the petitioner on the issue of title to the property. It is seen that immediately after receipt of Ext.P1 judgment dated 16.1.2014, the petitioner approached the 2nd respondent through Ext.P4 request for referring the matter to the Sub Court, Cherthala, for adjudication so as to get enhanced compensation for the property that was acquired. The petitioner therefore could not have been seen as a person who approached the respondent authorities belatedly in terms of Section 18 for a reference to the Sub Court. Accordingly, I quash Ext.P5 communication, and direct the 2nd respondent to refer the application preferred by the petitioner for enhanced compensation under Section 18 of the LA Act, to the Sub Court, Cherthala, for adjudication. The 2nd respondent shall do the needful within a period of three weeks from the date of receipt of a copy of this judgment.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE