

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

WEDNESDAY, THE 27TH DAY OF MAY 2015/6TH JYAISHTA, 1937

WP(C).No. 36367 of 2009 (M)

PETITIONER:

**P.K.KRISHNAN, AGED 58 YEARS
S/O. LATE K.P.V.KUNHAMBU
POTHUVAL, RESIDING AT KPK HOUSE
RAMANTHALI P.O., KANNUR DISTRICT. (DIED)**

Addl. PETITIONERS 2 TO 8 IMPEADED

**2. SARASWATHI.K., AGED 57 YEARS.
W/O.P.K.KRISHNAN**

**3. HARL.K. AGED 35 YEARS.
S/O.LATE P.K.KRISHNAN,**

**4. SMITHA.K.
D/O..LATE P.K.KRISHNAN.**

**5. GAMESH.K., AGED 31 YEARS.
S/O.LATE P.K.KRISHNAN**

**6. P.K.VIJAYAN, AGED 56 YEARS.
S/O.KUNHAMBU PODUVAL,**

**7. P.K.JAYAKUMAR, AGED 49 YEARS.
S/O.KUNHAMBU PODUVAL,**

**8. P.K.SATHYAN, AGED 47 YEARS.
S/O.KUNHAMBU PODUVAL**

**(ALL ARE RESIDING AT RAMANTHALI AMSOM
POST RAMANTHALI, THALIPARAMBA TALUK
KANNUR DISTRICT).**

**(PETITIONERS NO.2 TO 8 ARE REPRESENTED BY THEIR POWER OF
ATTORNEY HOLDER P.K.SATHIYAN, AGED 47 YEARS
S/O.KUNHAMBU PODUVAL,
RESIDING AT RAMANTHALI AMSOM, DESOM, RAMANTHALI.P.O.
TALIPARAMBA TALUK, KANNUR DISTRICT)**

**ADDL. P2 TO P8 ARE IMPEADED AS PER ORDER DATED 30/10/2012 IN
IA 14062/2012.**

BY ADV. SRI.V.N.RAMESAN NAMBISAN

WP(C).No. 36367 of 2009 (M)

RESPONDENTS:

**1. THE DISTRICT COLLECTOR,
KANNUR.**

**2. THE SPECIAL TAHSILDAR (L.A.),
NAVAL ACADEMY, PAYYANNUR.**

BY GOVERNMENT PLEADER SRI. GIKKU JACOB

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
27-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

DCS

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 : COPY OF REJECTION ORDER NO. C-454/05 DATED 17.04.2008 OF THE 2ND RESPONDENT**
- P2 : COPY OF APPLICATION UNDER SECTION 28A OF THE LAND ACQUISITION ACT**
- P2(a) : COPY OF THE RECEIPT ISSUED BY THE 2ND RESPONDENT**
- P3 : COPY OF ORDER OF THE 2ND RESPONDENT, NO. C.1764/05 DATED 3.1.2009**
- P4: COPY OF THE PETITIONER'S APPLICATION DATED 26.02.2009 UNDER SECTION 28A(3) OF THE LAND ACQUISITION ACT**
- P5: COPY OF THE ORDER OF REJECTION NO. D.DIS 466/09/D DATED 12.3.2009 ISSUED BY THE SECOND RESPONDENT**
- P6: COPY OF THE ABOVE JUDGMENT IN WRIT PETITION, W.P.(C) NO. 16770/09 DATED 30.06.2009**
- P7: COPY OF ORDER D.DIS 1578/09/C DATED 29.9.2009 ISSUED BY THE SECOND RESPONDENT REJECTING EXHIBIT P2 APPLICATION**

RESPONDENT(S)' EXHIBITS:-NIL

/TRUE COPY/

P.A. TO JUDGE

DCS

V. CHITAMBARESH, J

W.P.(C). NO. 36367 OF 2009

Dated this the 27th day of May, 2015

JUDGMENT

Ext. P7 order passed pursuant to Ext. P6 judgment in W.P.(C). No. 16770/2005 rejects Exts. P2 and P4 applications filed under Sections 28A(1) and 28A(3) of the Land Acquisition Act, 1894. The only reason stated in Ext. P7 order is that an application under Section 28A of the Land Acquisition Act, 1894 is not maintainable on the basis of a revised judgment in a land acquisition reference.

2. It is settled law that an application under Section 28A of the Land Acquisition Act is maintainable not only on the basis of an original judgment but also on the basis of the revised judgment in a land acquisition reference. The petitioner obviously rests his claim under Section 28A of the Land Acquisition Act, 1894 on the basis of the revised judgment in L.A.R. No. 6/1999.

3. I therefore quash Ext. P7 order and direct the second respondent to reconsider Ext. P2 application

under Section 28A(1) of the Land Acquisition Act, 1894.

The same shall be done with notice to the petitioner within a period of two months from the date of production of a copy of this judgment.

The writ petition is disposed of. No costs.

**V. CHITAMBARESH
JUDGE**

DCS