IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

WP(C).No. 34469 of 2014 (G)

PETITIONER(S):
----

1. **RAJAMMAL K.R.,**
   W/O.SHANMUKHAN, "SLOKA", ELAMAKKARA P.O.,
   KANAYANNUR TALUK, ERNAKULAM.

2. **BAIJU.K.S.,**
   S/O.SHANMUKAN, "SLOKA", ELAMAKKARA P.O.,
   KANAYANNUR TALUK, ERNAKULAM.

3. **SHAIJU,**
   S/O.SHANMUKAN, KALANGOT TOWERS, M.G.ROAD,
   KANAYANNUR TALUK, ERNAKULAM.

   BY ADVS.SRI.NAVEEN.T
   SRI.I.M.MANOJ

RESPONDENT(S):
----

1. **THE DISTRICT COLLECTOR,**
   ERNAKULAM, COLLECTORATE, CIVIL STATION,
   KAKKANAD-682 030.

2. **THE SPECIAL TAHASILDAR (LA),**
   NATIONAL HIGHWAY, NO.3, VYTILLA,
   ERNAKULAM-682 024.

3. **THE COMMISSIONER OF INCOME TAX (TDS),**
   OFFICE OF THE COMMISSIONER OF INCOME TAX,
   I.S.PRESS ROAD, ERNAKULAM-682 018.

   R1 & R2 BY GOVERNMENT PLEADER SMT. M.T.SHEEBA
   R3 BY ADV. SRI.JOSE JOSEPH, SC, FOR INCOME TAX

   THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).No. 34469 of 2014 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1: A TRUE COPY OF THE NOTICE DATED 23.8.2012 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONERS

EXHIBIT-P2: TRUE COPY OF THE QUESTIONNAIRE AND INFORMATION OBTAINED UNDER RTI ACT DATED 3.7.2013.

EXHIBIT-P3: TRUE COPY OF THE CONSENT LETTER DATED 24.8.2012.

EXHIBIT-P4: TRUE COPY OF THE LETTER DATED 26.9.2012 ISSUED BY 2ND RESPONDENT.

EXHIBIT-P5: TRUE COPY OF THE LETTER ISSUED BY THE VILLAGE OFFICER DATED 26.12.2012.

EXHIBIT-P6: TRUE COPY OF THE JUDGMENT DATED 21.6.2013 IN WRIT PETITION 4946/2013.

EXHIBIT-P7: TRUE COPY OF THE NOTICE DATED 15.5.2013 ISSUED BY 2ND RESPONDENT TO THE PETITIONERS.

EXHIBIT-P8: TRUE COPY OF THE REPRESENTATION DATED 8.7.2013.

EXHIBIT-P9: TRUE COPY OF THE LETTER DATED 8.10.2013 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT-P10: TRUE COPY OF THE REQUEST DATED 22.10.2013. SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT

EXHIBIT-P11 SERIES: TRUE COPY OF THE AWARD DATED 30.12.2013 ISSUED TO THE PETITIONERS.

EXHIBIT-P12: TRUE COPY OF THE COMMUNICATION DATED 29.1.2014. OF THE 2ND RESPONDENT

EXHIBIT-P13: TRUE COPY OF THE TAX RECEIPTS DATED 25.6.2014.

EXHIBIT-P14: TRUE COPY OF THE JUDGMENT IN WRIT APPEAL 2243/2008.

EXHIBIT-P15: EXHIBITS NIL

EXHIBIT-P16 COPY OF THE JUDGMENT DATED 20/12/2014 IN LAR NO.21/2014 OF THE LEARNED III ADDITIONAL SUB JUDGE, ERNAKULAM

EXHIBIT-P17 COPY OF THE PAY ORDER CHEQUE ISSUED TO THE 1ST AND 2ND PETITIONER.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A. MUHAMED MUSTAQUE, J.

--

W.P(C). No. 34469 of 2014

Dated this the 13th day of July, 2015

J U D G M E N T

Petitioner's land was acquired for Metro project. Petitioner surrendered the land based on a negotiable settlement. Ext.P3 is the consent letter. The issue in this writ petition is whether the petitioner is entitled for compensation based on the negotiable settlement or based on the Basic Value Rate.

2. The petitioner has been denied compensation based on the negotiable settlement for the reason that, petitioner was unable to produce the title deed or ownership deed. Therefore, the compensation amount was deposited with Sub Court.

3. Petitioner admittedly received the compensation deposited before the Sub Court. The amount deposited before the Sub Court was based on the Basic Value Rate.

4. The petitioner approached the Sub Court and got the release of the entire amount based on their title and ownership in respect of the property. The petitioner has approached this Court for release the balance amount due under the negotiable settlement.

5. The stand taken by the State is that, since the petitioner failed to establish the ownership or title, the matter was referred to Sub Court under Section 31(2) of the Land Acquisition Act and therefore the petitioner is entitled for compensation only at Basic Value Rate.

6. There is no dispute that the compensation rate was agreed and petitioner got the amount for the acquisition without resorting other provisions relating dispossession in terms of Land Acquisition Act. The settlement has been mutually arrived in the bi-lateral meeting. This settlement part-takes nature of contract and the State is bound by it. The parties having accepted the rate of compensation, State cannot renege from the contract merely for the reason that State has to deposit the amount before the Sub Court for adjudicating the title. The adjudication of the title by the Sub Court is only to establish claim for compensation and do not indicate that parties have not settled the rate of compensation in bi-lateral agreement.

7. In that view of the matter, I am of the view that State cannot resile from the agreed compensation. Therefore, compensation thus due to the petitioner under the negotiable settlement shall be released to the petitioner after deducting

the compensation already deposited before the Civil Court.

8. It appears that, TDS has not been issued so far. In the light of judgment of the Civil Court necessarily, Tahsildar shall also issue TDS Certificate to the petitioner. Needful shall be done to release the balance amount to the petitioner within two months. All other issues relating to the taxability are left open.

This writ petition is disposed of.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.

Pn