

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 10TH DAY OF DECEMBER 2015/19TH AGRAHAYANA, 1937

WP(C).NO. 34531 OF 2015 (N)

PETITIONER(S) :

ANTONY KOCHERY, AGED 60 YEARS
S/O.LATE LT. COM. DIAYNOSE KOCHERY, KOCHERY HOUSE
MARKET ROAD, IRINJALAKUDA
MUKUNDAPURAM TALUK, THRISSUR DISTRICT

BY ADV. SRI.RAJIT

RESPONDENT(S) :

1. STATE OF KERALA
REPRESENTED BY SPECIAL SECRETARY TO GOVERNMENT
THIRUVANANTHAPURAM 695 001

2. DISTRICT COLLECTOR
THRISSUR, COLLECTORATE, AYYANTHOLE
THRISSUR DISTRICT 680 003

3. EXECUTIVE ENGINEER
PWD (ROADS) DIVISION, THRISSUR DISTRICT 680 003

4. CHIEF ENGINEER ROADS & BRIDGS,
THIRUVANANTHAPURAM 695 001

R3 BY ADV. GOVERNMENT PLEADER SRI.R.RENJITH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
10-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).NO. 34531 OF 2015 (N)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1 TRUE COPY OF ALIGNMENT SKETCH PREPARED BY THE 3RD
RESPONDENT WHICH WAS OBTAINED BY THE PETITIONER THROUGH RIGHT TO
INFORMATION

EXHIBIT P2 TRUE COPY OF THE MINUTES OF MEETING DT 21/07/2014

EXHIBIT P3 TRUE COPY OF THE NEW SKETCH

EXHIBIT P4 TRUE COPY OF THE SKETCH SHOWING THE ACTUAL PLAN SHOWING
THE ALIGNMENT AS PER EXT.P1 AND EXT.P3

EXHIBIT P5 TRUE COPY OF THE PHOTOGRAPHS SHOWING THE FRONTAGE OF
PETITIONERS PROPERTY

EXHIBIT P6 TRUE COPY OF THE G.O(RT) NO 1317/2015/PWD

RESPONDENT(S) ' EXHIBITS:NIL

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P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.
.....
W.P.(C).No.34531 of 2015
.....
Dated this the 10th day of December, 2015

J U D G M E N T

The writ petition is filed seeking to quash Exts.P3 and P6 proposals in connection with the widening of the Kodungallur-Shornur road. The thrust of the challenge in the writ petition is that the change in the proposal, particularly with regard to the alignment sought to be pursued for the widening of the road, has been done without consulting the persons who would be affected by the widening, and further, that the shifting of the original alignment is not based on valid considerations.

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

3. A counter affidavit has been filed by the 3rd respondent where the justification of the change in alignment is stated in paragraph two which reads as follows:

“2. Tana and Chandhakunnu are two main four-way junctions forming part of Kodungallur-Shornur State Highway. Those junctions are situated in the heart of Irinjalakuda town, where heavy traffic block is being experienced. Demand for widening the road was made from

all quarters. Considering the above, it was decided to take necessary steps for widening the road by acquiring land. A draft alignment was prepared which was approved by the Chief Engineer, Public Works Department (Roads & Bridges). In the meantime protest against the proposed alignment was raised, mainly from the Merchants' Association. Hence a meeting was convened at the chambers of the district Collector on 19.07.2014 in the presence of the Local MLA, People's representatives, members of Merchants' Association, representatives of PWD and other officials so as to arrive at a settlement. The District Collector, after considering all the aspects had directed the Public Works Department to prepare a revised alignment in such a manner so as to avoid the existing new structures, to the maximum extend possible. Based on the same, a revised alignment was prepared and it was approved by the Chief Engineer, PWD [Roads & Bridges) vide No.CE/R&B/TCR/BW/3996/13 dated 30.09.2014. Later, administrative sanction for land acquisition to the present proposal was accorded by the Government vide G.O.(Rt) No.1317/2015/PWD dated 08.09.2015. It is submitted that entire action taken by the respondents in this regard is in order and any contention contrary to the same is wrong and hence denied."

On a consideration of the facts and circumstances of the case and submissions made across the bar, I find that the respondents have, after consultation with various stakeholders, decided to revise the alignment that was originally proposed in connection with the widening of the Kodungallur-Shornur road, so as to avoid demolition of existing new structures to the maximum extent possible. The learned counsel for the petitioner would contend that, while deciding to change the alignment from that originally envisaged to the revised one, the respondents have taken into account factors which are wholly irrelevant to a decision for revised alignment. In my view, the present stage at which the petitioner has chosen to raise these objections is one when the proposal has not metamorphosed into a concrete decision to acquire lands from the petitioner. Under the said circumstances, and taking note of the fact that the interest of the petitioner is adequately protected under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, when it comes to land acquisition proceedings, I am of the view that, the writ petition in its challenge against the change in the alignment of the proposed road widening activity, is premature and cannot be maintained at this stage. The writ petition therefore fails, and is

accordingly dismissed.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/10.12.15

