

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 20TH DAY OF NOVEMBER 2015/29TH KARTHIKA, 1937

WP(C).No. 34703 of 2015 (K)

PETITIONER:

**SRI.C.R.MADHU, AGED 45 YEARS,
S/O.RAVEENDRANATHAN, CHULLIYIL HOUSE,
ENGANDIYOOR, THRISSUR -680 615**

**BY SRI.S.SREEKUMAR,SENIOR ADVOCATE
ADVS. SRI.P.MARTIN JOSE
SRI.P.PRIJITH
SRI.THOMAS P.KURUVILLA
SRI.AJAY BEN JOSE**

RESPONDENTS:

- 1. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
PWD, GOVERNMENT SECRETARIAT,
TRIVANDRUM- 695 001**
- 2. THE DISTRICT COLLECTOR & ARBITRATOR
(NATIONAL HIGHWAY) COLLECTORATE,
THRISSUR -680 001**
- 3. THE SPECIAL DEPUTY COLLECTOR,
SPECIAL LAND ACQUISITION OFFICER AND COMPETENT AUTHORITY,
NATIONAL HIGHWAY DEVELOPMENT PROJECTS,
THRISSUR- 680 001**
- 4. THE PROJECT OFFICER,
NATIONAL HIGHWAY, PALAKKAD -678 001**

**R1 TO R3 BY GOVERNMENT PLEADER SRI.RANJITH
R4 BY SRI.THOMAS ANTONY**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

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APPENDIX

PETITIONER(S)' EXHIBITS

- P1:- TRUE COPY OF AWARD DTD NIL OF THE 3RD RESPONDENT PASSED UNDER SECTION 3G OF THE NATIONAL HIGHWAYS ACT 1956
- P2:- TRUE COPY OF CHEQUE DTD 8/4/2010 FOR RS.9,33,542/- ISSUED TO THE PETITIONER
- P3:- TRUE COPY OF APPLICATION DTD 18/7/2013 SUBMITTED BY THE PETITIONER UNDER SECTION 3G(6) OF THE NATIONAL HIGHWAYS ACT, 1956 BEFORE THE 2ND RESPONDENT
- P4:- TRUE COPY OF LETTER DTD 4/11/2013 ISSUED BY THE 2ND RESPONDENT
- P5:- TRUE COPY OF PETITION DTD 27/6/2015 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT
- P6:- TRUE COPY OF LETTER DTD 26/9/2015 ISSUED BY THE 2ND RESPONDENT
- P7:- TRUE COPY OF AWARD DTD 15/6/2015 ISSUED BY THE 2ND RESPONDENT

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

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Dated this the 20th day of November, 2015

JUDGMENT

The petitioner in the writ petition, whose lands were acquired for the widening of the national highway, is aggrieved by Ext.P6 order rejecting his application for condonation of the delay in the filing of an application under Section 3G(6) of the National Highways Act, 1956, for the purposes of referring the issue of compensation to arbitration as contemplated under the said Act. It is the case of the petitioner in the writ petition that, inasmuch as the arbitration under Section 3G (6) of the National Highways Act, 1956, is one that has to be completed in accordance with the Arbitration and Conciliation Act, 1996, the application preferred by him for referring the matter to arbitration should be viewed as an application made in terms of Article 137 of the Limitation Act and consequently, the provisions of Section 5 of the Limitation Act, that permit a condonation of delay in proceedings other than a suit would come to his aid in seeking a condonation of the delay, that was occasioned while making the application for reference of the issue to arbitration. The learned senior counsel appearing on behalf of the petitioner would place reliance on the decisions of the Hon'ble Supreme Court in State of Uttar Pradesh v. Lakshmi [**AIR 1988 SC 1007**], State of Orissa v. Damodar Das [**AIR 1996 SC**

942], Steel Authority of India Ltd. v. J.C.Dudharaja, Government & Mining Contractor **[1999 (8) SCC 122]**, Asia Resort Ltd. v. Usha Breco Ltd. **[2001 (8) SCC 710]** and Harishankar Singhania (2) v. Gaur Hari Singharia **[AIR 2006 SC 2488]** to canvas for the proposition that an application under Section 3G (6) of the National Highways Act, 1956 can be entertained by the appropriate authority, even after the time limit of three years from the date of arising of the cause of action by invoking the provisions of Section 5 of the Limitation Act.

2. I have also heard the learned Government Pleader on behalf of the 1st and 3rd respondents and Smt.Sheela Devi, the learned Standing Counsel for the National Highway Authority of India.

On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that the issue involved in the writ petition stands decided against the petitioner by a division bench decision of this Court in Leela K.V. v. District Collector and Arbitrator, Thrissur & Another **[2015 (2) KHC 813]** (judgment dated 30.03.2015 in WA No.226 of 2015). Following

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the aforesaid decision of the division bench of this Court therefore,
I dismiss the writ petition.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /20.11.15