IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

WP(C).No. 35569 of 2014 (U)

PETITIONER(S):
----

1. **SAJEEVAN, AGED 45 YEARS,**
   S/O.RAMANKUTTY, PERUMPILLIL, PALLILANKARA,
   THRIKKAKARA NORTH VILLAGE, ERNAKULAM DISTRICT.

2. **BEEPATHU, AGED 53 YEARS,**
   D/O.ALI, MUKULATHU, VADAKODU KARA,
   H.M.T.COLONY P.O., ERNAKULAM DISTRICT.

3. **SUHARA SIDDIQUE, AGED 43 YEARS,**
   KOCHERIKKATTIL HOUSE, EAST KADUNGALLUR,
   U.C.COLLEGE P.O., ALUWAYE, ERNAKULAM DISTRICT.

4. **UMMAR, AGED 63 YEARS,**
   S/O.MUKULATHU AYUMULLA, PUTHENVEETTIL PARAMBIL,
   PALLILANKARA, H.M.T.COLONY P.O., ERNAKULAM DISTRICT.

5. **IBRAHIM, AGED 58 YEARS,**
   S/O.ALIKKUTTY, MUKULATHU HOUSE, PALLILANKARA,
   H.M.T.COLONY P.O., ERNAKULAM DISTRICT.

BY ADVS.SRI.R.SURAJ KUMAR
SRI.SUNIL J.CHAKKALACKAL

RESPONDENT(S):
----

1. **THE DISTRICT COLLECTOR,**
   ERNAKULAM, CIVIL STATION, KAKKANADU,
   ERNAKULAM DISTRICT. PIN-682 012

2. **THE SPECIAL THAHASILDAR (LA),**
   NO.111, KOCHI INTERNATIONAL AIRPORT, NEDUMBASSERY,
   NAYATHODU P.O., ERNAKULAM DISTRICT.PIN-682 536

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

R1 & R2 BY SR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN
R3 BY SRI.JOSE JOSEPH, SC, FOR INCOME TAX

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).No. 35569 of 2014 (U)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 : **TRUE COPY OF THE NOTICE DT. 7-11-14 ISSUED TO THE 1ST PETITIONER.**

EXT.P2 : **TRUE COPY OF THE NOTICE ISSUED TO THE 4TH PETITIONER.**

EXT.P3 : **TRUE COPY OF THE NOTICE DT. 15-12-14 ISSUED TO THE 1ST PETITIONER.**

EXT.P4 : **TRUE COPY OF THE NOTICE DT. 15-12-14 ISSUED TO THE 2ND PETITIONER.**

EXT.P5 : **TRUE COPY OF THE NOTICE DT. 15-12-14 ISSUED TO THE 3RD PETITIONER.**

EXT.P6 : **TRUE COPY OF THE NOTICE DT. 15-12-14 ISSUED TO THE 4TH PETITIONER.**

EXT.P7 : **TRUE COPY OF THE NOTICE DT. 15-12-14 ISSUED TO THE 5TH PETITIONER.**

EXT.P8 : **TRUE COPY OF THE JUDGMENT DT. 8-1-2009 IN WA.NO. 2243/2008.**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO.JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.35569 OF 2014

Dated this the 15th day of January, 2015

J U D G M E N T

The challenge in this writ petition is against the action of the respondents in deducting tax at source, under Section 194(LA) of the Income Tax Act, on the amounts payable to the petitioners towards compensation under the Land Acquisition Act. The issue with regard to the entitlement of the persons, similarly situated as the petitioners, to receive the compensation amount without any deduction there from under Section 194 LA of the Income Tax Act, has already been decided in their favour of the Judgment dated 03.06.2014 in W.P(C) 4209/2014 and connected cases. In the instant case, however, the amounts receivable by the 1st petitioner are such that deduction of tax under S. 197 IA would have to be effected by the respondents in his case. Further, although the petitioners are entitled to the benefit of the judgment referred to above in respect of deductions under S. 197 LA of the IT Act, I note that in the instant case, the tax has already been deducted and paid to the Income Tax Department. Under the circumstances, the remedy of the petitioners would lie in filing appropriate returns, for the assessment years in question, before the income tax authorities, and claiming a refund of the tax amount deducted at source from payments made to them in terms of the Land Acquisition Act. Thus, leaving it open to the petitioners to pursue the aforesaid course of action, the writ petition is closed by holding that the petitioners are otherwise entitled to the benefit of the judgment dated 03.06.2014 in W.P(C) 4209/2014 and connected cases.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns