

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY , THE 11TH DAY OF DECEMBER 2018 / 20TH AGRAHAYANA, 1940

WP(C).No.34591 of 2018

PETITIONER/S:

- 1 T.V.NARAYANAN, AGED 70 YEARS, KARUNA BAKERY,
DHARMASALA, KANUL PO,KANNUR DISTRICT 670562
- 2 V.P.BAGHYAM, BINDU TRADERS,BAKKALAM,KANUL.P.O,
KANNUR DISTRICT-670562.
- 3 M.M.LAKSHMANAN, AMBA STORE,DHARMASALA,
P.O.KANUL, KANNUR DISTRICT-670562.
- 4 MAHESH.K.M, NANDITHA TEA SHOP,BAKKALAM,
P.O.KANUL, KANNUR DISTRICT-670562.
- 5 C.A.KUNHIKANNAN, RAJESH HOTEL, BAKKALAM, P.O.KANUL,
KANNUR DISTRICT-670562.

BY ADVS.

SRI.LINDONS C.DAVIS

SMT.E.U.DHANYA

SRI.M.RAJAGOPAL

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,REVENUE
DEPARTMENT,SECRETARIAT,THIRUVANANTHAPURAM 695001
- 2 DISTRICT COLLECTOR
COLLECTORATE,CIVIL STATION,KANNUR-670001.
- 3 SPECIAL TAHSILDAR(LA)
N.H.A.I,UNIT-1,TALIPARAMBA,KANNUR DISTRICT-670141.
- 4 PROJECT DIRECTOR
NATIONAL HIGHWAYS AUTHORITY OF INDIA, (MINISTRY OF ROAD
TRANSPORT AND HIGHWAYS) PROJECT IMPLEMENTATION
UNIT,NO.2/2175-B,KRISHNA KRIPA,AISWARYA ROAD,CIVIL
STATION(P.O) ,KOZHIKODE-673020.
- 5 ADDL.R5 SPECIAL DEPUTY COLLECTOR (LAND ACQUISITION)
(NATIONAL HIGHWAYS), KANNUR-670002. (ADDL.R5 IS IMPEADED
AS PER ORDER DATED 11/12/2018 IN IA.NO.01/2018)

ADV.SRI.THOMAS ANTONY, SC FOR R4

OTHER PRESENT:

SRI.SAIGI JACOB PALATTY,SR.GOV.T.PLEADER FOR R1-R3 AND ADDL.R5

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11.12.2018,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

-2-

ALEXANDER THOMAS, J.

W.P(C).No.34591 Of 2018

Dated this the 11th day of December, 2018.

J U D G M E N T

The main prayers in the Writ Petition (Civil)
are as follows:

- "i) to issue a Writ of Mandamus or any other appropriate writ, order or direction directing the respondents to pay Rs.2,00,000/- as compensation to the petitioners in tune with Ext.P2 order within a time frame fixed by this Hon'ble Court;
- ii) to declare that the petitioners are entitled for compensation before the National Highway Authority takes the physical possession of the property."

2. Heard Sri.Lindons C.Davis, learned counsel for the petitioner, Sri.Saigi Jacob Palatty, learned Senior Government Pleader appearing for respondents 1 to 3 & 5 and Sri.Thomas Antony, learned Standing Counsel appearing for the 4th respondent-NHAI.

3. The petitioners would state that they are commercial tenants conducting various shops in the shop rooms rented from their building owner/land owner situated in the adjacent area of

-3-

National Highway from Dharmasala to Bakkaolam, Kasaragod District. The said part of National Highway is sought to be acquired for widening as four line highway. For that purpose, the Central Government had decided to acquire land as per the provisions of the National Highways Act, 1956 for widening/four lining, etc. The petitioners' shops, which are on the sides of the said road are going to be acquired for the said purpose. The Central Government had already issued a notification in that regard on 17.12.2013. It is further further pointed that the 1st respondent-State Government has formulated Ext.P-2 policy guidelines by way of one time assistance of Rs.2 lakhs to meet all shifting charges and social costs of commercial tenants like the petitioners, it is averred. The 3rd respondent had listed the petitioners for compensation as per Ext.P-3. That thereafter, the petitioners have approached the respondents for compensation for several times and no effective action is forthcoming. It is in the light of these factual averments, the

instant Writ Petition (Civil) has been filed seeking the aforementioned prayers.

4. Having heard both sides, this Court is of the view that it is for the petitioners to file appropriate claim petitions seeking the benefits of Ext.P-2 guidelines before the 5th respondent, who is the competent authority notified for the abovesaid acquisition under the National Highways Act, 1956. Such claim petitions should be filed without much delay, preferably within a period of one month from the date notified for receiving a certified copy of this judgment. If such claim petitions are so properly filed, then the 5th respondent-competent authority will afford a reasonable opportunity of being heard to the petitioners and will render a considered decision thereon in the light of the guidelines thereon. The 5th respondent will be at liberty to conduct an enquiry to ascertain the entitlement of the petitioners for such benefits. Copy of such enquiry report should also be furnished to the

-5-

petitioners so as to enable them to make submissions and contentions in the matter. Thereafter, it is for the competent authority to afford a reasonable opportunity of being heard to the petitioners and take a decision in the matter without much delay, preferably within a period of 3 months from the date of receipt of the claim petitions.

With these observations and directions, the above Writ Petition (Civil) will stand finally disposed of.

Sd/-
ALEXANDER THOMAS,
Judge.

bkn/-

APPENDIX

PETITIONER'S/S EXHIBITS:

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| EXHIBIT P1 | A COPY OF THE RELEVANT PAGES OF
NOTIFICATION DATED 17.12.2013 WITHOUT
SCHEDULE ATTACHED. |
| EXHIBIT P2 | A COPY OF THE GOVERNMENT ORDER IN
G.O(MS)NO.448/2017/RD DATED 29.12.2017
ISSUED BY THE 1ST RESPONDENT. |
| EXHIBIT P3 | A COPY OF THE RELEVANT PAGES OF THE
LSIT OF COMMERCIAL TENANTS PREPARED BY
THE 3RD RESPONDENT. |