

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOMAS P.JOSEPH

MONDAY, THE 31ST MAY 2010 / 10TH JYAISTHA 1932

CRP.No. 265 of 2009()

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AGAINST THE ORDER DATED 02/06/2006 IN EA.654/04 IN EP.59/04 IN  
LAR.104/1985 of PRINCIPAL SUB COURT,KOTTAYAM  
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REVN. PETITIONER(S)/JUDGMENT DEBTOR:  
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STATE OF KERALA, REPRESENTED BY THE  
DISTRICT COLLECTOR, KOTTAYAM.

BY GOVERNMENT PLEADER SHRI P.R.JAYAKRISHNAN

RESPONDENT(S):  
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- (\*) 1. K.S.RAJAN, KALANGARA HOUSE, KOTTAYAM (DIED. LRS IMPEADED)  
2. KOTTAYAM MUNICIPALITY.

ADDL.R3 TO R5 IMPEADED:

3. JAMEELA RAJAN, W/O.K.S.RAJAN (LATE), KULANGARAYAYA MANORAMA  
BUNGLOW, MUTTAMBALAM, KOTTAYAM.
4. K.R.SANKAR, S/O.RAJAN, KULANGARAYAYA MANORAMA  
BUNGLOW, MUTTAMBALAM, KOTTAYAM.
5. LAKSHMI RAJAN, D/O.K.S.RAJAN, KULANGARAYAYA MANORAMA  
BUNGLOW, MUTTAMBALAM, KOTTAYAM, REP. BY POWER OF  
ATTORNEY HOLDER, K.R.SANKAR (2ND PETITIONER IN IA NO.637/2010)

(ADDL.R3 TO R5 IMPEADED AS LEGAL REPRESENTATIVES OF DECEASED  
RESPONDENT NO.1 VIDE ORDER ON IA NO.637/2009 DATED 31.5.2010)

ADV. SRI.SIBY MATHEW FOR R2  
SRI.PHILIP J.VETTICKATTU FOR R2  
SRI.B.PREMNATH (E) FOR R2  
SRI.ROY CHACKO FOR ADDL.R3 TO R5

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD  
ON 31/05/2010, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:

**THOMAS P. JOSEPH, J.**

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**C.R.P.No.265 of 2009**  
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**Dated this the 31<sup>st</sup> day of May, 2010.**

**ORDER**

During pendency of this revision respondent No.1 died and his legal representatives are impleaded as additional respondent Nos. 3 to 5.

2. This revision is in challenge of order dated 02.06.2006 on E.A.No.654 of 2004 in E.P.No.59 of 2004 in L.A.R.No.104 of 1985 of the court of learned Principal Sub Judge, Kottayam. Grievance of petitioner/State is that though not provided in the decree, executing court transgressing the limits of the decree has allowed respondent Nos.3 to 5 to realize interest on the amount awarded by way of solatium. That according to the petitioner is illegal in so far the decree did not provide for that and, executing court could not have gone behind the decree. Learned counsel for respondent Nos.3 to 5 would contend, placing reliance on the decisions in **Gurpreet Singh v. Union of India [(2006) 8 SCC 457]**, **Secretary, Technical Education, U.P. and others v. Lalit Mohan Upadhyay and another[(2007) 4 SCC 492]** and **Sankaranezhuthassan v. State of Kerala [2007 (4) KLT 492]** that there is nothing illegal in the order of executing court.

3. Binding decisions in **Gurpreet Singh v. Union of India** and **Secretary, Technical Education, U.P. and others v. Lalit Mohan Upadhyay and another** which has been followed by this Court in **Sankaranezhuthassan v. State of Kerala** is that so far as the claim for interest on solatium was not disallowed by the Land Acquisition Officer or, raised before the reference court and disallowed by that court, it is open to the executing court to allow interest on solatium notwithstanding that the decree does not provide for that since a statutory claimant is entitled to such interest on solatium. In view of those decisions, executing court is legally correct in allowing interest on solatium though it was not provided in the decree in so far as it is not the case of petitioner and that there is no evidence also that interest on solatium disallowed by the Land Acquisition Officer or, it was claimed and rejected by the reference court. There is no merit in this revision petition.

Revision Petition is dismissed.

**THOMAS P.JOSEPH,**  
**Judge.**

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