

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE PIUS C.KURIAKOSE  
&  
THE HON'BLE MR. JUSTICE P.D.RAJAN

THURSDAY, THE 28TH DAY OF FEBRUARY 2013/9TH PHALGUNA 1934

RP.No. 870 of 2012 ()  
IN LA.App..1038/2005

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AGAINST THE JUDGMENT IN LA.App..1038/2005  
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REVIEW PETITIONER/THIRD PARTY :  
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VINCENT LEO CRASTA, AGED 52 YEARS  
S/O. MARIYAM CRASTA  
RESIDING AT MUKARIGUDDE OF KODIMMOLE  
EDNAD VILLAGE AND POST, KASARAGOD DISTRICT.

BY ADV. SRI.SURESH KUMAR KODOTH

RESPONDENTS/APPELLANTS/RESPONDENTS :  
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1. T.VASU  
S/O. CHOYI, RESIDING AT KUTHIGAVALAPPU  
OPP. GASALI MASJID, THALANGARA, KASARAGOD DISTRICT.
2. THE SPECIAL TAHSILDAR  
LAND ACQUISITION, KASARAGOD.
3. THE MANAGING DIRECTOR  
KINFRA, VELLAYAMBALAM, THIRUVANANTHAPURAM.
4. THE DISTRICT COLLECTOR  
KASARAGOD.

R2, R4 BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR  
R3 BY SRI.G.S.REGHUNATH, SC, KINFRA

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 28-02-2013, THE  
COURT ON THE SAME DAY PASSED THE FOLLOWING:

PIUS C. KURIAKOSE &  
P. D. RAJAN, JJ.

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R. P. No.870 of 2012 in  
L. A. A No.1038 of 2005  
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Dated this the 28<sup>th</sup> day of February, 2013

**ORDER**

*Pius C. Kuriakose, J*

Sri.Suresh Kumar Kodoth, the leaned counsel for the review petitioner submitted that the review petitioner has a real and subsisting interest in the subject matter of the review. The review petitioner filed an application for re-determination of the compensation payable for the acquired property on the basis of the appellate judgment in LAA.1038/05 (as per the revised judgment passed on the basis of a review petition filed by the first respondent, the appellant therein at ₹ 2,600/- per cent). According to the review petitioner so long as those judgments stand the review petitioner will not be able to claim more than ₹ 2,600/- per cent. Counsel submitted that the rate fixed

under that judgments is not at all realistic and is far below the actual market value of properties in the village. Counsel therefore requested that we review the judgment in LAA.1038/05 and enhance the compensation payable to the first respondent.

2. The submissions of Sri.Suresh Kumar Kodoth were opposed by the learned Standing Counsel for the Requisitioning Authority. According to him, the present RP seeking a second review is not maintainable in law. Counsel further submitted that the review petitioner has no locus standi to seek a review of the judgment in LAA.1038/05 as he is a total stranger to the LAA.

3. In reply Sri.Suresh Kumar Kodoth would draw our attention to the judgment of the Supreme Court in National Housing Co-op. Society Ltd. v. State of Rajasthan & Ors [2005 STPL (LE) 36114 SCC], K.Ajit Babu v. Union of India (AI 1997 SC 3277) and Gopabandhu Biswal v. Krishna Chandra

Mohanty (AIR 1998 SC 1872) and submitted that the petitioner is a person aggrieved for the purpose of Order 47 Rule 1 as on account of the judgment sought to be reviewed the petitioner's right to get the correct compensation determined for his acquired property is affected.

4. We have given our anxious consideration to the rival submissions addressed at the Bar. Even though a reading of Order 47 Rule 1 CPC will indicate that the expression “any person aggrieved” appearing in sub rule 1 of Order 47 Rule 1 can refer only to persons who were parties to the original proceedings, there are judgments of the Supreme Court mostly relating to matters arising from Central Administrative Tribunal that even if the person applying for a review was not a party to the original proceedings they can seek review if on account of the judgment or order sought to be reviewed their rights have been substantially affected. Looking that way, it would appear as if the review petitioner

is not totally without locus standi to maintain the present review. But we do not find way to grant any relief to the petitioner on account of another proceeding. He was an applicant under section 28A of the Land Acquisition Act. It was relying on the judgment in the first respondent's case that he filed his application under Section 28A. The judgment now sought to be reviewed has attained finality as far as the first respondent is concerned. If we entertain the present review (the entertainability which is in doubt as it is a second review petition) the resultant situation is that the present petitioner can aspire for more compensation than what was awarded to the first respondent. It is trite that a claimant under Section 28A cannot be eligible for more compensation than what was paid or payable to the party relying on whose judgment the application under Section 28A was filed by him. In short we do not find ground for admitting this R.P. We dismiss the same in limine. We

however make it clear that this judgment will not preclude the first respondent from challenging the reviewed judgment in LAA.1038/05 in accordance with law and the review petitioner relying on any judgment or order resulting from such challenge of the first respondent in accordance with law.

Sd/-  
PIUS C. KURIAKOSE  
JUDGE

Sd/-  
P. D. RAJAN  
JUDGE

kns/-

//TRUE COPY//

P.A. TO JUDGE