

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

THURSDAY, THE 30TH DAY OF JULY 2020 / 8TH SRAVANA, 1942

WP(C).No.15209 OF 2020

PETITIONERS:

- 1 SOORAJ P MATHEW, S/O. MATHUKUTTY.P.M.,
PALLIMATTATHIL HOUSE, PEROOR POST,
REPRESENTED BY POWER OF ATTORNEY HOLDER,
MATHUKUTTY P.M.,S/O. P.M.MATHAI,
AGED 67 YEARS, PALLIMATTATHIL HOUSE,
PEROOR POST,KOTTAYAM DISTRICT-686 637
- 2 SURAJ P.MATHEW, S/O. MATHUKUTTY.P.M.,
PALLIMATTATHIL HOUSE, PEROOR POST,
REPRESENTED BY POWER OF ATTORNEY HOLDER,
MATHUKUTTY P.M.,S/O. P.M.MATHAI,
AGED 67 YEARS, PALLIMATTATHIL HOUSE,
PEROOR POST,KOTTAYAM DISTRICT-686 637

BY ADV. SRI.P.K.RAVI SANKAR

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY ITS ADDITIONAL CHIEF SECRETARY,
REVENUE DEPARTMENT, THIRUVANANTHAPURAM-695 001
- 2 DISTRICT COLLECTOR,
KOTTAYAM-686 001
- 3 SPECIAL TAHSILDAR L.A (GENERAL)
KOTTAYAM

BY GOVERNMENT PLEADER SRI.K.P HARISH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
30.07.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

THURSDAY, THE 30TH DAY OF JULY 2020 / 8TH SRAVANA, 1942

WP(C).No.15224 OF 2020

PETITIONER:

P.M.MATHAI, S/O.MATHEN, PALLIMATTATHIL HOUSE,
PEROOR POST, REPRESENTED BY POWER OF ATTORNEY
HOLDER, MATHUKUTTY P.M., S/O.P.M.MATHAI,
AGED 67 YEARS, PALLIMATTATHIL HOUSE, PEROOR POST,
KOTTAYAM DISTRICT-686 637.

BY ADV. SRI.P.K.RAVISANKAR

RESPONDENTS:

- 1 STATE OF KERALA
REP BY ITS ADDL.CHIEF SECRETARY,
REVENUE DEPARTMENT, THIRUVANANTHAPURAM- 695 001.
- 2 DISTRICT COLLECTOR
KOTTAYAM-686 001.
- 3 SPECIAL TAHSILDAR LA (GENERAL)
KOTTAYAM-686 001.

BY GOVERNMENT PLEADER SRI.K.P HARISH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
30.07.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

I am disposing of these two Writ Petitions together since the factual circumstances involved and the prayers sought are analogous and also because the petitioner in WP(C)No.15224/2020 is the grandfather of the petitioners in WP(C)No.15209/2020.

2. The petitioners seek that the respondents be directed to pay them compensation for the acquisition of property owned by them, as determined in Ext.P1-order, along with interest as per Section 34 of the Land Acquisition Act; with a further assertion that they are also entitled to the compensation as fixed under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act. (2013 Act).

3. The petitioners in WP(C)No.15209/2020, in fact, stake claim for

compensation under the 2013 Act, based on Ext.P4 proceedings therein, as per which, the Additional Sub Judge had allowed in LAR 24/2015, returned the petitioners' request for enhancement of compensation to the competent Authority 'for taking steps under the new enactment' (sic). The petitioners, therefore, pray that the respondents be directed to calculate the compensation payable as per the 2013 Act and that the same be paid to them, along with applicable interest at the earliest.

4. Sri.K.P.Harish, learned Senior Government Pleader, appearing on behalf of the official respondents, submits that though steps had been taken earlier by the concerned Authorities to pay the compensation amounts to the petitioners, it could not be done since they had not produced the relevant documents. He says that, therefore,

subsequent steps were taken to have the same deposited in Court as per the provisions of law but that on account of certain technical hiccups, this could also not be done. He says that the Authorities are now willing to pay the compensation amounts to the petitioners directly, if they are so interested, provided they approach them with necessary documents.

5. After saying so, the learned Senior Government Pleader submitted that as regards the compensation under the 2013 Act is concerned, even though the petitioner in WP(C)No.15224/2020 rely on Ext.P4 proceedings therein, no such proceedings have been produced by the petitioners in WP(C)No.15209/2020. He says that as far as the petitioners in WP(C)No.15209/2020 is concerned, they have not even challenged the award and therefore, it is unlikely that the competent Authority can take any decision on

such a claim in their case. He, however, says that the District Collector is willing to hear the petitioners in both cases on these aspects.

6. Taking note of the afore submissions and since it is ineluctable that the petitioners have already been awarded certain amounts as per law and since these amounts admittedly have not yet been paid to them, I am certain that the competent Authorities are now bound to ensure that these amounts are disbursed at the earliest. The question relating to the re-fixing of compensation under the 2013 Act also will have to be taken note of, particularly in the case of the petitioners in WP(C)No.15209/2020, since they are already enjoying the benefit of Ext.P4 order of the learned Additional Sub Judge.

7. I am, therefore, of the view that the District Collector must hear the petitioners

on these aspects, leading to the disbursement of eligible compensation, along with interest and such other under the provisions of law as expeditiously as is possible.

8. To facilitate this, I direct the petitioners to mark appearance in the office of the District Collector, Kottayam, on 14.08.2020; on which day, they shall be heard by the said Authority.

9. I make it clear that if for any reason, there is any impediment in causing the hearing on that day, the District Collector will fix another day, with notice to the petitioners; and also that the petitioners, if unable to appear in person, will also be entitled to authorise any other person to appear on their behalf for hearing.

10. Needless to say, after the hearing of the petitioners are completed in the afore fashion, the District Collector will issue

appropriate orders disbursing the eligible amounts to them, specifically taking note of Ext.P4 in WP(C)No.15209/2020, as expeditiously as is possible, but not later than two months after the hearing is completed.

11. After I dictated this judgment, learned Senior Government Pleader submitted that in WP(C)No.15224/2020 he has been instructed to also say the petitioner has accepted the enhanced amounts. This certainly will also be kept in mind by the District Collector when the proceedings as per this judgment is taken forward.

These writ petitions are thus ordered.

Sd/-

DEVAN RAMACHANDRAN

JUDGE

RR

APPENDIX OF WPC 15209/2020

PETITIONER'S/S EXHIBITS:

- | | |
|------------|----------------------------------------------------------------------------------------------------------------------------------------|
| EXHIBIT P1 | TRUE COPY OF THE AWARD NO.1/13-
14(147(A) NLA) (FILE NO.B1 951/09)
DATED 17.12.2014 PASSED BY THE 3RD
RESPONDENT |
| EXHIBIT P2 | TRUE COPY OF NOTICE DATED 19.1.2015
ISSUED BY THE 3RD RESPONDENT TO THE
PETITIONER |
| EXHIBIT P3 | TRUE COPY OF THE CLAIMS AND
APPORTIONMENT DATED NIL ISSUED BY
THE 3RD RESPONDENT |
| EXHIBIT P4 | TRUE COPY OF THE ORDER DATED
27.6.2018 IN L.A.R. 24 OF 2015 ON
THE FILE OF PRINCIPAL SUB
COURT,KOTTAYAM |
| EXHIBIT P5 | TRUE COPY OF THE ORDER DATED
31.12.2019 IN UNNUMBERED E.P(C.F
NO.15376 OF 2019) OF THE ADDITIONAL
DISTRICT COURT II, KOTTAYAM |
| EXHIBIT P6 | TRUE COPY OF THE AWARD DATED
04.02.2017 IN LAR 23 OF 2015 ON THE
FILE OF PRINCIPAL SUB COURT,
KOTTAYAM |

APPENDIX OF WPC 15224/2020

PETITIONER'S/S EXHIBITS:

- EXHIBIT P1 TRUE COPY OF THE AWARD BI,1/13-14(147
NLA) (FILE NO.B1 951/09) DATED
17/12/2014 PASSED BY THE 3RD RESPONDENT.
- EXHIBIT P2 TRUE COPY OF NOTICE DATED 19/1/2015
ISSUED BY THE 3RD RESPONDENT TO THE
PETITIONER
- EXHIBIT P3 TRUE COPY OF THE CLAIMS AND
APPORTIONMENTS DATED NIL ISSUED BY THE
3RD RESPONDENT.
- EXHIBIT P4 TRUE COPY OF THE AWARD DATED 4/2/2017 IN
L.A.R 23/2015 ON THE FILE OF PRINCIPAL
SUB COURT, KOTTAYAM.
- EXHIBIT P5 TRUE COPY OF THE ORDER DATED 31/12/2019
IN UNNUMBERED EP(CF NO,15377/2019) OF
THE ADDL.DISTRICT COURT-II, KOTTAYAM.