

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

WEDNESDAY, THE 25TH DAY OF MAY 2022 / 4TH JYAISHTA, 1944

RP NO. 442 OF 2022

AGAINST THE JUDGMENT IN WP(C) 28912/2021 OF HIGH COURT OF KERALA

REVIEW PETITIONERS/3RD PARTIES:

- 1 SUNANTHI, AGED 55 YEARS, W/O CHANDRAN,
RESIDING AT SOUCHEENDADAM, NADAKKUTHAZHA AMSOM
DESOM, VADAKARA TALUK, KOZHIKODE DISTRICT
- 2 HEMANTHI, AGED 58 YEARS, W/O. RAJAN, RESIDING AT
SHANKARATH VEEDU, MANNUR AMSOM DESOM, KOZHIKODE TALUK.
- 3 VASANTHI, AGED 60 YEARS, W/O. VASU, KUTTIPUNAM VAYALIL,
VIYOOR AMSOM, KOLLAM DESOM, KOYILANDY TALUK, KOZHIKODE
DISTRICT.

BY ADVS.
B.KRISHNA MANI
DHANUJA M.S

RESPONDENTS:

- 1 SOUMYANATHAN M.K., AGED 60 YEARS,
S/O LATE PACHER, MADHURAKKANDIYIL VEEDU, THRIKKOTTUR
AMSOM, DESOM, KOYILANDY TALUK, KOZHIKODE DISTRICT 673529
- 2 RAMYANATHAN M.K., AGED 54 YEARS, S/O LATE PACHER,
MADHURAKKANDIYIL VEEDU, THRIKKOTTUR AMSOM, DESOM,
KOYILANDY TALUK, KOZHIKODE DISTRICT- 673529.
- 3 COMPETENT AUTHORITY AND SPECIAL DEPUTY COLLECTOR,
LAND ACQUISITION (NHAI), KOZHIKODE-673020.
- 4 SPECIAL TAHSILDAR (LA NH),
KOYILANDY, KOZHIKODE-673305.

SMT. MABLE C KURIEN - SR.GP

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON
25.05.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

The petitioners assert that the judgment dated 09.03.2022 in W.P.(C) No.28912/2021 is in error since the directions therein were issued without them being arrayed on the party array by the writ petitioners/respondents 1 and 2 herein.

2. Sri.B.Krishna Mani, learned counsel for the review petitioners, vehemently argued that the Competent Authority for Land Acquisition (CALA), appointed under the provisions of National Highways Act (NH Act) cannot issue any Award without recording the version of his clients and therefore, that any proceedings that he may have settled is incompetent.

3. In opposition to the afore submissions, Sri.Parthasarathy, learned counsel appearing for the writ petitioners/respondents 1 and 2 herein, submitted that this petition is no longer relevant because the directions in the judgment have already been complied with and that too, after hearing the review petitioners, by the CALA. He handed over the proceedings of the CALA dated 18.05.2022 across the Bar to show me that the said order has been

communicated to the review petitioners and that they have been shown as Nos.3 to 5 in the list of persons to whom it has been communicated.

4. The learned Senior Government Pleader - Smt.Mable C.Kurian, submitted that the CALA has acted strictly in accordance with the directions of this Court and had heard all persons, including the review petitioners, as is evident from the proceedings now handed over across the Bar by Sri.Parthasarathy. She submitted that she does not have any further instructions on the merits of the matter and that the official respondents are willing to abide by any directions to be issued by this Court.

5. No doubt, the writ petition was filed without arraying the review petitioners on the party array. However, the learned Senior Government Pleader had informed this Court, at the time when the judgment sought to be reviewed was delivered, that there were objectors. It is in such circumstances that I had directed the CALA to hear the petitioners and any other interested person, especially the objectors, if any, before issuing final orders.

6. Since Sri.Parthasarathy and Smt.Mable C.Kurian

affirm that the review petitioners were thus heard and their version recorded by the CALA, leading to the said Authority issuing a final order under the provisions of the "NH Act", I am certainly of the view that nothing survives for consideration of this Court in this review petition.

7. Of course, when I say this, I am fully aware of the submissions of Sri.B.Krishna Mani that the title of the property is pending adjudication before a Civil Court and that he relies on Exts.P7 and P8 in substantiation. His contention is that the writ petitioners, who are defendants in the suit, cannot claim any right over the property in question until the title is finally adjudicated based on the documents. On such basis, he contends that Ext.P9 cannot confer title, but concedes that the suit now stands dismissed for default and that an application for its restoration is pending. It is thus ineluctable that, even as per the petitioners, the suit in question shall remains dismissed.

8. Even this being so, since the CALA has already issued an Award and the amounts under it having been disbursed to the writ petitioners, if the review petitioners

are interested, they must approach the Civil Court and obtain necessary orders, after the suit is restored in terms of law. I do not think, therefore, that the judgment of this Court sought to be reviewed suffers from any irregularity.

Resultantly, with the afore liberty being reserved to the review petitioners, this petition is closed.

Sd/- DEVAN RAMACHANDRAN
JUDGE

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APPENDIX OF RP 442/2022

PETITIONER ANNEXURES

Annexure 1 TRUE COPY OF THE APPLICATION IA NO.3/2021
DATED NIL IN OS NO.36/2016 BEFORE THE
MUNSIFF'S COURT, PAYYOLI.