
(2014) 11 KL CK 0100
In the High Court Of Kerala
Case No : WP (C). No. 3395 of 2014 (Y)

Ayisha Beevi

APPELLANT

Vs

Land Acquisition Officer Civil Station

RESPONDENT

Date of Decision : 04-11-2014

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 4(1)

Citation : (2014) 11 KL CK 0100

Hon'ble Judges : K. Surendra Mohan, J

Bench : Single Bench

Advocate : P.V. Kunhikrishnan, Advocate for the Appellant; K.A. Sanjeetha, Government Pleader, Advocate for the Respondent

Judgement

K. Surendra Mohan, J.—The petitioners are owners of properties comprised in Sy. Nos. 1829/11 and 1829/4 of Nedumangad Village, Thiruvananthapuram District. An extent of 8.09 Ares of property in Sy. No. 1829/11 that belong to the petitioners 1 and 2 and an extent of 3.24 Ares of property in Sy. No. 1829/4 of Nedumangad Village that belongs to the 3rd petitioner were acquired by the respondents for the purpose of "E.E.C Assisted Market" at Nedumangad. The notification under Section 4(1) of the Land Acquisition Act is dated 16.06.1992. Thereafter, an award was passed by the Land Acquisition Officer on 30.04.1993. Dissatisfied with the amount awarded, the petitioners submitted applications under Section 18 of the Act for a reference to the Civil Court for the determination of the compensation due to them. However, they complain that their applications were not referred to the Civil Court, though they were submitted within the time stipulated by law.

2. According to the learned Government Pleader, the reference applications of the petitioners had been received and had been forwarded to the Sub Court, Thiruvananthapuram.

3. In view of the above stand taken by the respondents, a direction was issued by this Court to the Registry to obtain a report from the Sub Court,

Thiruvananthapuram on the administrative side regarding the fate of the applications of the petitioners. Accordingly reports have been obtained from the Sub Court, Thiruvananthapuram as well as the Sub Court, Nedumangad. The reports form part of the record.

4. Heard the counsel for the petitioners as well as the learned Government Pleader. It has been stated by the Senior Superintendent, Collectorate, Thiruvananthapuram, in his statement as follows :

"4. It is submitted that Smt. Aysha Beevi, D/o Sherifa Beevi, Kuzhivilakath Veedu, Thekkumkara Muri, Nedumangad submitted an application under section 18 of Land Acquisition Act before the Land Acquisition Officer on 09.06.1993 and Smt. Magitha Beevi, D/o Smt. Aysha Beevi, Kuzhivilakathu Veedu, Thekkumkara Muri, Nedumangad submitted a reference application under section 18 of Land Acquisition Act before the Land Acquisition Officer on 19.06.1993. Smt. Arifa Beevi, W/o. Sri. Shahul Hameed, Choondupalaka, Veeranakavu village (power of attorney holder of Sri. Shahul Hameed filed a reference application before the Land Acquisition Officer on 11.01.1994.

5. It is submitted that the 18 reference applications related to the Awarded statement No. 1/93-94 (E.E.C Market, Nedumangad) have been sent to the Honourable Sub Court, Thiruvananthapuram as per file No. k.10-34272/94/R.Dis dated 01.09.1994. But it is learnt that the LAR has been subsequently transferred to the Additional Sub Court, Nedumangad from the Thiruvananthapuram Sub Court. At the time of submitting the reference applications, about thirty applications were altogether sent to the Sub Court along with all related documents. Out of these about 28 cases have already been disposed by the Honourable Sub Court, Nedumangad.

6. It is submitted that the names and address of the petitioners (except Magitha Beevi) are also mentioned in the covering letter dated 01.09.1994 in which reference applications are enclosed. But no further communications regarding the reference application of the above petitioners has been received in this office till date."

5. It is clear from the above that, the reference applications were submitted within the stipulated time, that they were considered and references had been made to the Civil Court. However, report of the First Additional Sub Judge, Thiruvananthapuram dated 18.07.2014 shows that the claim of the petitioners had not been considered for awarding enhanced compensation, since the references were not received by the Court. The Government Pleader is not in a position to tell me, what the reason is, for the references not having been received by the competent Sub Court. However, the fact remains that the land of the petitioners have been acquired and that, they have not been paid enhanced compensation, while similarly placed land owners have received enhancement in compensation pursuant to references made to the Civil Court. The above being the position, it is only appropriate that the references made in respect of the

properties of the petitioners are also considered by the competent Civil Court, without further delay. For the purpose, it is only appropriate that a proper reference is made by the Land Acquisition Officer, afresh. This is in view of the fact that, according to the respondents reference has been made, while it has not been received by the Court. This writ petition is therefore allowed. The respondents are directed to make a fresh references to the Sub Court regarding the claims of the petitioners for enhancement in compensation for the land acquired from their possession. Necessary action shall be initiated and the references shall be made, as expeditiously as possible and at any rate within a period of two weeks of the date of receipt of a copy of this judgment.