
(2013) 09 KL CK 0071

In the High Court Of Kerala

Case No : Writ Petition (C) No. 27111 of 2011

Cochin Paper and Boards (P.) Ltd.

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 30-09-2013

Acts Referred:

Land Acquisition Act, 1894 — Section 4(1)

Citation : (2013) 4 KLJ 835 : (2013) 4 KLT 512

Hon'ble Judges : K. Surendra Mohan, J

Bench : Single Bench

Advocate : T.R.S. Kumar and E.M. Sunil Kumar, for the Appellant; G. Gopakumar, Government Pleader, for the Respondent

Judgement

K. Surendra Mohan, J.—The petitioner is the owner of a property that has been acquired as per Exhibit P1 notification issued under S. 4(1) of the Land Acquisition Act, 1894. In Exhibit P1, the petitioner's land is described as wet land. Since the petitioner's land was actually dry land, by Exhibit P4 Erratum Notification, the mistake was corrected. Accordingly, the description of the petitioner's property has been corrected as, "reclaimed land". In accordance with Exhibit P4, a Basic Valuation Report Exhibit P3 was prepared on the basis of which, the compensation payable to the petitioner was computed and 80% thereof was paid. Later on, a draft Award was prepared and sent to the third respondent for approval. The grievance of the petitioner is that the said draft Award was rejected and the 4th respondent has been directed to pass a fresh Award on the basis of Exhibit P1 notification. According to the counsel for the petitioner, despite realizing that the description of the petitioners' land in Exhibit P1 was a mistake, the correction that has been incorporated by Exhibit P4 notification is directed to be given the go by while passing the Award. The said action is submitted to be illegal and liable to be corrected by this Court. A counter affidavit has been filed by the 4th respondent reiterating the stand that an Award could be passed only in accordance with Exhibit P1. The reason stated is that there is no provision to rectify the declaration that was already approved.

The counsel for the petitioner draws my attention to the judgment of this Court dated 27.11.2013 in W.P. (C) No. 26521 of 2012 where, in identical circumstances, a direction has been issued to pass Awards in terms of the Erratum Notification.

2. Heard. It is not in dispute that the description of the petitioner's land in Exhibit P1 is a mistake. It was for the said reason that on realizing the mistake, Exhibit P4, an Erratum Notification was issued. Having corrected the mistake as per the Erratum Notification, the present action of the respondents in retracting their stand and proceeding to pass Awards only on the basis of Exhibit P1 notification as originally issued is without any justification. When a mistake is detected, it is certainly within the powers of the authority to correct the mistake. The right to claim compensation for the land that has been acquired is a valuable constitutional right that cannot be denied to a land owner on flimsy grounds. Therefore, I am satisfied that the petitioner is entitled to succeed.

In view of the above, this Writ Petition is allowed. The 4th respondent is directed to pass an Award in favour of the petitioner, in terms of Exhibit P4 Erratum Notification, as expeditiously as possible and at any rate within a period of two months of the date of receipt of a copy of this judgment.