

(2022) 10 KL CK 0249

In the High Court Of Kerala

Case No : Writ Petition (C) No. 34522 Of 2022

Govindan Karuthedath

APPELLANT

Vs

Project Director National Highway Authority Of India,
Mavelipuram Road, Mavelipuram, Kakkanad, Kochi,
Ernakulam District, Pin 682030

RESPONDENT

Date of Decision : 28-10-2022

Acts Referred:

National Highways Act, 1956 — Section 3G
Arbitration and Conciliation Act 1996 — Section 17

Citation : (2022) 10 KL CK 0249

Hon'ble Judges : T.R.Ravi, J

Bench : Single Bench

Advocate : Babu S. Nair, Smitha Babu, Bimal K.Nath, Lejo Joseph George

Final Decision : Disposed Of

Judgement

T.R. Ravi, J.

1. Admit. Standing Counsel takes notice for respondents 1 and 3. Government Pleader takes notice for respondents 2 and 4.

2. An extent of 0.0047 Hectares of land belonging to the petitioner was acquired for the purpose of widening of National Highway 66. A residential building is situated in the said property. Ext.P1 is the award passed by the 3rd respondent. Aggrieved by the improprieties in the award passed, the petitioner has preferred Ext.P3 application under Section 3G of the National Highways Act, 1956 before the 2nd respondent, which is stated to be pending. The petitioner submits that though the authorities have informed that only the sunshade portion of the residential building will be demolished, now they have decided to cut and remove the entire corner portion of the building, which will affect the stability of the entire building. It is also submitted that the 4th respondent has granted time till 31.10.2022 and on that day they will demolish the portion of the building.

3. The petitioner has filed this writ petition seeking a direction to the respondents not to demolish the residential building bearing No.15/127 situated in R.S.No.90/2 of Perumbadappu Village in Ponnani Taluk without granting adequate compensation; to direct the respondents to take over the entire building; and for other consequential reliefs.

4. Since the petitioner has already preferred Ext.P3 arbitration application before the 2nd respondent Arbitrator, this writ petition is disposed of directing the petitioner to prefer an appropriate application under Section 17 of the Arbitration and Conciliation Act before the 2nd respondent, seeking interim relief of valuation of the residential building, within 10 days from the date of receipt of a copy of this judgment. On receipt of the application, the 2nd respondent shall consider the same and pass orders within two weeks therefrom. The demolition of the building shall be only after the valuation of structure is carried out. The 2nd respondent shall hear and dispose of Ext.P3 application, after hearing the petitioner and the National Highway Authorities, at the earliest, at any rate, within eight months from the date of receipt of a copy of this judgment.