

(2010) 10 KL CK 0143
In the High Court Of Kerala
Case No : W.A. No. 1648 of 2010

Joseph O.E., K.T. Thomas, John K. Thomas and Krishnankutty P. APPELLANT

Vs

National Transorting Planning and Research and Others RESPONDENT

Date of Decision : 04-10-2010

Acts Referred:

Citation : (2010) 10 KL CK 0143

Hon'ble Judges : Jasti Chelameswar, C.J;P.R. Ramachandra Menon, J

Bench : Division Bench

Advocate : Sajan Vargheese K, for the Appellant; Thomas Antony, for the Respondent

Final Decision : Dismissed

Judgement

P.R. Ramachandra Menon, J.—The appellants are before this Court having lost the battle before the learned Single Judge with regard to the acquisition proceedings launched at the instance of the National Highways Authority for establishing a "toll plaza" in NH 47 at a "point 243" K.Ms. The case projected by the appellants is that, if the acquisition is made so as to establish the "toll plaza" at the proposed site, irreparable loss and injury are likely to be resulted; which made them to file W.P.(C) No. 24450 of 2010 seeking to locate the "toll plaza" at "point 244" K.Ms., stating that it is a more convenient spot, which will cause only less disadvantage to the persons concerned.

2. Going by the materials on record, it is very much clear that the appellants/ petitioners, along with some others, had approached this Court earlier, by filing W.P.(C) No. 33522 of 2007, which culminated in Ext.P3 judgment, whereby interference was declined and the writ petition was dismissed. Subsequently, referring to some other communication in between the concerned authorities, the appellants approached this Court again by filing W.P.(C) No. 24450 of 2010. The sequence of events narrated in the writ petition and other relevant aspects were considered and this Court observed that the appellants were abusing the process

of the Court by filing such a writ petition even after the dismissal of W.P.(C) No. 33522 of 2007 filed in respect of the very same cause of action. It was also observed that the earlier verdict had become final, in as much as there was no challenge to it either by way of appeal or review. In the said circumstances, interference was declined and the writ petition was dismissed with cost of Rupees five thousand.

3. Learned Counsel for the appellants submits that the factual position, particularly with reference to the communication sent by the Chief Engineer to the Secretary to the Government as borne by Ext.P6 and Ext.P7 have not been properly adverted to. The learned Counsel appearing for the third respondent submits that the averments made by the appellants are devoid of any merit or bona fides.

4. It is brought to our notice that the proceedings have already been finalized passing the awards by the concerned Land Acquisition Officer; pursuant to which, compensation has been released to the concerned persons. It is also pointed out that the appellants do not have any plea of mala fides with regard to the acquisition proceedings. It is settled position of law, that the "feasibility" of the land and the "public purpose" are matters within the exclusive realm and jurisdiction of the concerned authorities/respondents and the scope of judicial scrutiny in such matters is only to a limited extent.

In the circumstances, we find no reason to interfere with the impugned judgment. Writ appeal fails and the same is dismissed accordingly.