

(1964) 11 KL CK 0001
In the High Court Of Kerala
Case No : O.P. No. 2002 of 1963

Manavallabhan Karnamulpad

APPELLANT

Vs

State of Kerala and Another

RESPONDENT

Date of Decision : 19-11-1964

Acts Referred:

Kerala Land Acquisition Act, 1961 — Section 12(2), 20, 31(2)

Citation : (1965) KLJ 670

Hon'ble Judges : P. Govindan Nair, J

Bench : Single Bench

Advocate : D.H. Nambudiripad and P.R. Nambiar, for the Appellant;

Judgement

P. Govindan Nair, J.—It appears to me that the point raised in this writ application is well founded. Counsel on behalf of the petitioner submits that the alleged notice issued to the petitioner u/s 12 (2) of the Kerala Land Acquisition Act, 1961, copy of which has been produced as Ext. P. 2, cannot be treated as a notice at all and that therefore his application for reference moved on 14-9-1963 within six months of the award dated 29-3-1963 is within the time provided by proviso (b) of sub section (2) of Section 20 of the same Act. It is not disputed that if the notice Ext. P. 2 is no notice at all in the eye of the law this contention must prevail. But counsel on behalf of the respondents strenuously urges that it is impossible to say that Ext. P. 2 is no notice at all in the eye of the law. To understand this submission, it is necessary to state a few more facts. The petitioner is the 18th named person in the notice and his lessee is the 19th (sic) person. The land to the extent of 7.04 acres in R. S. No. 203/IA and (sic) R. S. No. 204/6 have been acquired. What is said in Ext. P. 2 is that the compensation awarded for these lands is Rs. 11,373.03. The foot-note to Ext. P.2 to which my attention has been invited merely says that "Awardees" 18 and 19 are informed that the amounts shown against them have been deposited in the Sub-Court, Kozhikode u/s 31 (2) of the Land Acquisition Act.

2. The award, a copy of which the petitioner obtained later on an application and

which has been produced as Ext. P. 3, shows that the land value along with the solatium allowed for the two pieces of land comes to Rs. 1,720.14 P. and that the value of improvements together with solatium comes to Rs. 9,652.63. The petitioner being the landlord, is mainly interested, I am told by counsel on behalf of the petitioner, on the land value awarded. Unless notice regarding this is issued to the petitioner, he will certainly not be in a position to decide whether he should ask for a reference or not. The notice Ext. P. 2, as I have already indicated, is completely silent in this regard. I therefore have no hesitation in coming to the conclusion that the notice Ext. P. 2 does not serve the purpose for which it is meant, by Section 12 (2). It therefore follows that it is not a notice u/s 12 (2). I therefore proceed on the basis that in this case there has been no notice u/s 12(2). This means that the period for moving an application for reference must be reckoned with reference to the date of the award. The application was moved within 6 months of the date of the award and this is within time.

3. I therefore quash Ext. P. 5 order rejecting the application for reference and direct the 2nd respondent to make a reference as prayed for. This writ application is ordered as above. No costs.